

103

CHINESE FORCED LABOR EXPORTS TO THE UNITED STATES

Y 4. F 76/1:C 44/25/993

Chinese Forced Labor Exports to the... HEARING

BEFORE THE

SUBCOMMITTEES ON
ECONOMIC POLICY, TRADE AND ENVIRONMENT;
INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS AND HUMAN RIGHTS; AND
ASIA AND THE PACIFIC

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

SEPTEMBER 9, 1993

Printed for the use of the Committee on Foreign Affairs



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CHINESE FORCED LABOR EXPORTS TO THE UNITED STATES

THURSDAY, SEPTEMBER 9, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEES ON ECONOMIC POLICY, TRADE AND ENVIRONMENT;
INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS; AND ASIA AND
THE PACIFIC,

Washington, DC.

The subcommittees met, pursuant to call, at 1:30 p.m. in room 2172, Rayburn House Office Building, Hon. Sam Gejdenson (chairman of the Subcommittee on Economic Policy, Trade and Environment) presiding.

Mr. GEJDENSON. The subcommittees will come to order. We open this hearing with our colleagues from the other subcommittees on an issue that has been of great importance to all of us on the Foreign Affairs Committee and many Members of Congress. China's willingness to toss political dissidents into jail is bad enough, but to subject these prisoners of conscience to forced labor and to export these products to the United States is a violation of internationally recognized human rights as well as U.S. law.

Furthermore, American jobs are lost when U.S. firms must compete with Chinese prison labor and Chinese prison manufactured imports.

The previous administration under pressure from this subcommittee and Congress and other human rights groups finally negotiated a prison labor agreement with China in 1992. The agreement was supposed to stop Chinese prison labor exports and to allow the United States to inspect forced labor sites in China.

Unfortunately, the Chinese have chosen to blatantly violate the prison labor agreement. Beijing has allowed only one U.S. inspection to take place under the pact. And even then the American inspector was denied access to certain portions of the prison. Four other requests for inspections were simply turned down by the Chinese.

Furthermore, when the United States requested the Chinese to investigate 16 suspected forced labor sites in the PRC, Beijing responded with a curt, one-sentence answer that provided almost no documentary evidence.

The Clinton administration has recognized that China has made a mockery of the prison labor agreement, and has failed to stem the flow of forced labor products to the United States. In his Executive order placing conditions upon China's MFN status, the Presi-

dent required that the Chinese live up to the prison labor agreement or lose their MFN status this year.

Unfortunately, the word in Beijing is that the prison labor condition in the President's Executive order is viewed as easy to meet by the Chinese Government.

We must clearly indicate to the Chinese that prison labor is not an easy-to-meet condition. The Chinese must understand that they will lose their MFN status next year unless they take meaningful steps to come back into compliance with the agreement.

Next July I will judge China's compliance with the prison labor agreement using three criteria.

First, all U.S. requests to inspect suspected forced labor sites must be granted. In my discussions with the Chinese to date, when I have requested to go to China, they said that we could go there but we could only go to the places they approved in advance, and they reiterated their invitation. I said I would be happy to go to China. I would just like to be able to go to places as we choose them, and they again said they would be happy to take any list of requests and review them.

If China wants us to take seriously their commitment to end prison labor, then American executive and legislative officials interested in examining the situation need to be given a greater opportunity to examine the situation in China. China's excuse that it has resolved the problem through its own investigation or that the United States has previously visited a particular prison is unacceptable.

Second, China must arrange for U.S. inspections in a timely fashion, within 1 week to 10 days.

Third, U.S. inspectors must have complete access to suspected forced labor sites. All portions of the prison and all necessary documents must be open for inspection.

These are the minimum standards for the Chinese to prove their compliance with the agreement. Otherwise it will be difficult for the administration to demonstrate to Congress next July that the prison labor agreement has any value. More importantly it will be hard to justify a continuation of China's MFN status.

I am very pleased to have Winston Lord before the subcommittee today. Secretary Lord has led the charge to ensure that human rights remain at the core of our Nation's policy toward China.

I am also pleased to have George Weise before us today, a former staffer in the Congress. Commissioner Weise, a long-time friend of the subcommittee, has indicated the Customs Service will continue to take tough action against Chinese forced labor exports. I thank today's witnesses for coming and will recognize my colleagues after a brief discussion at the time. I just simply say that this isn't an action by the Congress relating to internal Chinese affairs which we would like to see democratized generally. This is an action by the Congress that is based on protection of American workers and American corporations as well. We obviously think that the Chinese should live up to international law, but we certainly believe that we shouldn't open up our markets to the product of prison labor.

Would you gentlemen like to make an opening statement now?
Mr. Ackerman.

Mr. ACKERMAN. Thank you very much. The key issue for U.S. policy is the extent to which Chinese prison labor may be used to produce products for export to the United States. Requiring prisoners to work is perhaps the central feature of the Chinese prison system and has been since the early years of the People's Republic of China.

Although some reforms and changes in regulations have occurred since 1978, the current system of reform and reeducation through labor basically have been in place since the 1950's. Chinese leaders continue to believe that labor is an essential and prudent component of the rehabilitation process and moreover that the products of prison labor should be an integral part of the Chinese economic system.

In 1991 I and other Members of Congress sent a statement to the U.S. Customs Service presenting our strong views regarding forced labor imports from the People's Republic of China. Since this time the U.S. Customs Service has cracked down on Chinese forced labor imports in line with Section 1307 of the 1930 Tariff Act.

In 1992 under tremendous pressure from human rights advocacy groups and Congress, United States and China negotiated a prison labor agreement. This agreement was to cease Chinese prison labor exports and allow the United States to inspect forced labor sites in China. However, this agreement has not been fully adhered to by the Chinese. In order to get the message to the Chinese, we must have the Customs Service ban the importation of entire classes of Chinese goods made with forced labor. The approach of limited action on certain items will not suffice.

The present administration has placed human rights conditions on China's MFN status, and it is imperative that China live up to this agreement in order for their MFN status to be renewed next year. This issue is not one that we in Congress will look upon lightly. It must be resolved. Continued aggressive action by the Customs Department against forced labor products will convince Beijing that the U.S. Government will continue to implement its policy on Chinese forced labor imports and that we are serious about this issue.

I want to thank our invited distinguished witnesses who will be here today, and we look forward to their testimony.

Mr. GEJDENSON. Thank you.

Congressman Roth.

Mr. ROTH. Thank you, Mr. Chairman, and let me abbreviate my remarks, but I do want to join with you in welcoming our witnesses. Although the focus of today's hearing is on stopping illegal imports of forced labor products, there is really a larger issue at stake as I see it. Where are we headed with our policy toward China? That is the real issue. This forced labor issue seems to fit a pattern that raises some basic questions about this administration.

If we want free markets in China, why does the Clinton administration keep interfering with our expanding trade? That really kicks the very entrepreneurs and the small business people in China who want to help, not to mention putting Americans out of work, those very Americans who are supposed to make exports to China that the administration decreed can't be shipped. How do

our companies compete in China's emerging markets when the policy is to embargo a half a billion dollars in high technology?

Other nations will simply fill the void. How do you get China's help with nonproliferation when you publicly attack them? And we are dead wrong in one instance. Wouldn't it be more productive to pursue these issues on a quieter basis? What is the moral authority of the United States to keep telling China and other people around the world how to live when every day brings a new report underlying the breakdown of our own society; three shopkeepers murdered here in Washington in the last week and a half, another tourist murdered in Miami before he even gets to his hotel. This is an on-going event. Half of our population can't read or do simple arithmetic.

Even though the world owes, I think, us a big debt for winning the cold war, we are squandering our leadership by coming across as tiresome and in many cases laughable, telling everyone else how to lead their lives and how to govern their daily affairs when our society is coming apart at the seams. The only leadership we in Wisconsin learn is leadership by example. If we want other countries to follow us, let's set an example. This is particularly true, I think, in our relations with China.

China is critical to maintaining world peace and expanding world trade, so I want to know how the administration's approach on this forced labor issue fits in with our larger and more important agenda with China, and if our Government doesn't start focusing on the problems here at home, we are going to see Americans calling for more forced labor in our own prisons instead of criticizing China. Thank you, Mr. Chairman.

Mr. GEJDENSON. Frank, do you want to go now? We have 8 minutes. It depends on how long your statement is.

Mr. WOLF. It is very brief. I appreciate the hearing and on behalf of all the people who are in these slave camps, I want to thank you and the others and particularly Nancy Pelosi for the leadership. I visited Beijing prison number one several years ago. It is almost a model prison, but it was not a very nice place to be. I think more has to be done.

Four months ago Nancy Pelosi, Charlie Rose and I had a press conference with Harry Wu showing a chain hoist, a chain hoist that had come in made by slave labor. To date it has been on our investigation by Customs. To date there has been no conclusion. Nothing has been done. Four months have gone by. What about the people that have been working on it?

Secondly, we had a memorandum of understanding. It is not being enforced. We asked for a number of places to go to; they allowed us into two. One they took us in wasn't even the one that we wanted to go in. We know that they are there. I have a new document which I want to give one to the subcommittee, one to Mr. Lord and one to the new head of Customs that Harry Wu just put out listing 40 camps with the number of people that are in the camps, the location and the products made. There are even telephone numbers. You could use the telephone there, call this one camp and probably get the camp director on the phone and place an order for whatever the product would be.

We know they are there, and I think we have to do more, and I would just end with this, one. I thank you for having the hearings that sensitize people to these camps for people who have not been in are very, very grim places. Three, I have great respect for Winston Lord. He has probably forgotten more about China than most Members of Congress will ever know. I want to encourage him to be aggressive to push ahead.

Lastly, the new director of Customs, who I do not know, one, it is too early to judge, but I think they have been slow. He has been slow. Customs has been slow on the chain hoist, 4 months on a chain hoist. They haven't been in the place. They haven't dealt with it. This is an opportunity for a fresh start to come up here, and in my position on the Appropriations Committee with jurisdiction over Customs next year are going to be aggressive in asking what they have done. We haven't done enough.

Here are the four: One for the committee, one for Winston Lord, one for the Customs, and, Mr. Chairman, on behalf of the 6 to 10 million Harry Wus and Mrs. Wus, Harry was in prison for 19 years. It is bad enough if you have got to go to something for a year you don't like, 19 years. These men and women are broken, and yet there is not a lot being done.

Mr. GEJDENSON. I want to thank you for your work. I hope you work on your partisan colleague over here, Mr. Roth, and try to get him over on our side, and if Harry could just stand up and take a bow, his work and courage, I think a lot of people saw him on "60 Minutes". Having the courage to go back into China after having spent 19 years in those prisons is really astounding, and we appreciate all that he has done and will continue to do, and I guess I would join with you in saying that if the Chinese are serious about this they ought to invite you and me and Harry back there and let us look around.

Mr. WOLF. And let us go in any prison, and I will take you up on that.

Mr. GEJDENSON. The subcommittee will stand in recess until the vote is completed.

[Recess.]

Mr. GEJDENSON. We will start with an opening statement from our colleague, Congressman Lantos of California.

Mr. LANTOS. Thank you, Mr. Chairman. I want to commend you for holding this hearing. I want to express my pleasure at welcoming Ambassador Lord, Secretary Lord. He is one of the most distinguished and superbly qualified public servants in his job. I am also pleased to welcome our Commissioner of Customs with whom I have had the pleasure of working for many years.

When we are putting up the lights on the Christmas tree this December, we need to take a second look at the box they come in and note where they were made. It might very well be China.

Most Americans associate silk, porcelain, tea, jade, lacquerware with China. Nowadays, however, we must also think of diesel engines, hand tools, rubber products, running shoes, and, yes, Christmas lights.

The last item is hardly something that the ordinary Chinese citizen has access to or even wants. Christmas tree lights are clearly manufactured for an export market. A *New York Times* reporter re-

cently spoke with one victim of the Laogai, the Chinese gulag, that has swallowed up millions of artists, academics, labor activists, religious believers, Tibetans and others. The man described his experiences working in a prison factory that produced Christmas tree lights. The very incongruity of the situation intensifies the horror of it.

In August of 1992 the Chinese Government and the United States signed a memorandum of understanding concerning the export of goods produced by forced labor. Its most important provision provides for inspection of suspected prison labor factories, although the conditions for the visits were left extremely vague. The memorandum of understanding is aimed, in the short run, at ending the exportation of prison-made goods to the United States. In the long run, I hope it is a first step toward the dismantlement of the entire Laogai gulag system.

But stories like that of the Christmas tree lights factory indicate that the Chinese Government has not stopped the lucrative trade in forced labor goods. Indeed, we know that not only does this trade continue, but that the Chinese Government goes to considerable lengths to make it difficult for foreigners to distinguish prison-made goods from legitimate Chinese exports.

The blame does not rest entirely on the Chinese side. Some of the American companies importing these goods know that the source of this trade is a monstrous system which perpetuates unspeakable human misery of unimaginable proportions, but they turn a blind eye to it. It should also be added that these U.S. companies are breaking U.S. law when they import forced labor products.

In May, President Clinton issued an Executive order which links continuation of Most Favored Nation treatment to China to overall, significant improvements in human rights. Among its specific provisions is one calling for compliance with the existing agreement to end the export of goods produced by forced labor and to allow U.S. inspections of suspected Chinese prison work camps.

China's continued use of forced labor constitutes a dismal failure to comply with this condition. Of course, I hasten to add that China is failing miserably across the boards.

The upcoming trip to China of John Shattuck, our Assistant Secretary of State for Human Rights and Humanitarian Affairs, gives the administration a splendid opportunity to drive home its seriousness about revoking MFN status for China next year if the Chinese Government continues to fail to make progress in these key areas.

Mr. Shattuck must make it clear to the Chinese that this President and this Congress will not face the impasse on China policy that often resulted in recent years.

In addition to delivering an unambiguous message to the Chinese administration, our Government can do much more to put teeth into the MOU provision for visits to suspected prison factories by U.S. officials. As expected, the Chinese have been reluctant to cooperate, but the United States, I understand, has only one or just a handful of agents assigned to China.

We need more inspectors and we need to enforce existing U.S. trade law, which bars the importation of goods made under condi-

tions that violate workers' rights. As we press the Chinese Government to bring an end to this huge slave labor system, and that is what it is, it is a slave labor system, let us do all we can on our side to eradicate this evil.

I would like to say an additional word in conclusion with respect to this whole process of China's compliance with the provisions, agreements and treaties they have signed on to. The recent flap about the inspection of the ship ought to be a good lesson for all of us. The Chinese are now asking for us to apologize because the ship was not carrying contraband poison. I am not sure that that is the case. I am not at all sure that the Chinese did not dump the poisons that we suspected them of carrying to Iran when it became clear that an inspection was forthcoming. I also believe that our Government's policy in this respect was perfectly appropriate. The right to inspections are part and parcel of these treaties, regardless of whether we find prohibited goods in every instance. It is enough if there is sufficient suspicion, and in this case I believe our suspicion was well-founded.

Finally, may I just say that this morning I had the extraordinary experience of taking the President of Bosnia, Mr. Izetbegovic, to the Holocaust Memorial Museum. He paused at several places, and one in particular; and that was the exhibit on slave labor. These matters are not just past issues displayed in museums. Slave labor on a large scale is present in China today, and the American people must know when they buy products from China that there is a possibility that these products were made in slave labor factories as were those Christmas lights. Thank you, Mr. Chairman.

Mr. GEJDENSON. Thank you. It is now a privilege for the subcommittee to hear from Winston Lord, the Assistant Secretary for East Asian and Pacific Affairs.

STATEMENT OF HON. WINSTON LORD, ASSISTANT SECRETARY FOR EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. LORD. Thank you, Mr. Chairman. First, let me apologize and explain for my hoarse voice. It comes from attending RFK Stadium Monday night and cheering on the Redskins. There was a lot to cheer about, but my voice has suffered as a result. I would also like to thank various members who have said some kind personal words. I am submitting a full statement for the record. I plan to read most of it, but I may cut out a few parts to save time for questions, but, of course, I stand by the entire report.

Let me also say that, of course, I have not had a chance yet to look at this new report about the Laogai Research Foundation, but I am pleased to see Harry Wu here today. He is a person of incredible courage and tenacity, and I would like to pay tribute to him.

Mr. Chairman, members of the subcommittee, I appreciate the opportunity to appear before this subcommittee to provide an update on the problem of Chinese prison labor exports to the United States.

With certain exceptions, U.S. law prohibits the importation of "all goods mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions." The U.S. Government has

devoted great efforts to prevent products produced by prison labor from being imported into this country.

We at the State Department work closely with the U.S. Customs Service all over the world to support law enforcement both at our borders and overseas.

Specifically regarding China, we have striven to identify and report on the export of prison labor products to the United States since the beginning of this decade.

It is no mistake or quirk of bureaucratic policymaking that linked labor with our MFN process for China. Along with other areas of human rights, we are deeply concerned about this issue.

I must say, Mr. Chairman, that without stealing the podium from my colleague, Commissioner Weise, I share his concern with the current state of implementation of the memorandum of understanding that we signed with the Chinese.

This administration has a commitment to human rights and enforcement of the prison labor memorandum of understanding (MOU). China's MFN status is conditioned on it. It will not be extended if there is not satisfactory implementation of the MOU and overall progress on human rights. Let me insert here that I listened carefully to Congressman Roth, and I would be pleased in the question and answer session to discuss some of these philosophic and tactical questions with respect to China policy.

At this point there is reason for concern. Recent human rights problems have overtaken positive gestures by the Chinese Government. The overall implementation of the prison labor agreement has generally been characterized by poor communications, slow and cursory responses to investigation questions, and stonewalling or rejections of requests for visits.

Early efforts by the U.S. Government to learn about prison labor exports were not successful, but increasing information from sources like Harry Wu, Asia Watch and others, coupled with interest on the part of the Congress, raised the level of public and governmental attention to these issues.

In October 1991, partly in response, the Chinese issued a regulation prohibiting the export of products made with prison labor. However, there was still the need to ensure that these exports did not reach our shores. Concern in the previous administration and the Congress prompted the United States to seek a memorandum of understanding on procedures for prompt investigation of allegations that specific imports from China were produced by prison labor.

We did not wait, however, for the prison labor MOU to be signed before we took action. I lay out here some of the things that we tried to do even before the MOU, and it is in my statement. I will pass on to the next section of my remarks. In any event, after a long, laborious negotiation in which we were ably assisted by our colleagues in the Customs Service, the United States and China signed a memorandum of understanding on trade in prison labor products in August 1992, as you have noted. This was a significant step forward in strengthening compliance with both American and Chinese laws and regulations, prohibiting trade in prison labor products.

Effective implementation is an important U.S. priority in our bilateral relations with China. The memorandum provides for the following: Prompt investigation of suspected violations of the laws and regulations of each side relating to trade in prison labor products, exchanges of information, meetings between officials and experts of the two sides, furnishing of evidence that can be used in judicial or administrative proceedings against violators, and prompt facilitation of visits to relevant facilities upon the request of either party.

Almost immediately after the signing, the U.S. Customs Service assigned a U.S.-based officer to the Embassy to facilitate implementation, and since then Customs officers have traveled frequently to China on temporary assignment to conduct investigations.

As suggested earlier, this is clearly not enough, and this month the United States is assigning two full-time officers to staff the new office in Beijing. One of these will be responsible primarily for prison labor issues. This should substantially boost our efforts to work with our Chinese counterparts to carry out the MOU.

Let me briefly review the procedure we follow in investigating cases. I would note that we have had problems at almost every stage of this process. First, we request the Chinese to investigate facilities which we have reason to believe use prison labor to produce goods for export to the United States. At this time we present the Chinese with whatever hard evidence we have that a firm is utilizing in prison labor produce exports. Depending on the results of the Chinese Ministry of Justice investigation, we may ask to make a verification visit to the site.

Since the signing of the MOU, we have presented 31 cases of suspected prison labor violations to the Chinese for investigation. Until yesterday or more precisely perhaps September 7, the Chinese had provided reports on 16 of these cases, and we were awaiting responses to another 15 which were presented to the Chinese in June.

Mr. Chairman, I am pleased to report today that our Embassy in Beijing has just received the results of these 15 outstanding cases. These could have a bearing on our ability to implement the MOU in the short term. Both State and Customs officials will be following up on these cases shortly in meetings with the Chinese in Beijing. That the Chinese have concluded these investigations despite their concerns about other outstanding cases may signal an increased willingness to work with us to implement the MOU. Let us hope so.

While we have not had a chance to evaluate the contents of the new Chinese reports, I can give you a brief summary of their findings.

The Chinese indicated that 11 of the 15 firms either do not export their products or do not export to the United States. Of the remaining cases, the Chinese say one factory—and I won't get into all the names to save time as we go through this—is unrelated to a local labor reformatory and employs only ordinary workers. Another facility is a provincial industrial enterprise, according to the Chinese, similar to the U.S. Federal prison system's UNICOR Program, but which employs family members of prisoners rather than

prisoners themselves. The Chinese have often told us that many Chinese factories employ family members of prison system employees, but not prisoners themselves. The Chinese could find no record of another facility. The Chinese noted that officials from our consulate in Shenyang visited another facility in question in November 1991 and that we did not express any objections at that time. This facility is the subject of Customs' most recent detention order.

I think it is important to give you the Chinese view. That doesn't mean we subscribe to it, but I think it is only fair to lay out their position. On August 25, 1992, we requested visits to five sites. We have visited only one of these facilities, the Jinma diesel factory, while our repeated requests to see the others have been rejected. For example, as I have already indicated, the Chinese responded that since consulate officers have been at several of the other sites prior to the signing of the MOU, visits to these facilities were unnecessary.

On the other hand, we have visited two sites which we did not ask to see but about which we have requested investigations.

Mr. GEJDENSON. Maybe I could interrupt you there. We have about 4½ minutes. We will go vote and we will come back. The subcommittee will stand in recess.

Mr. LORD. All right.

[Recess.]

Mr. GEJDENSON. The subcommittee will come back. Winston, please, continue at your leisure.

Mr. LORD. In the interest of time, Mr. Chairman, I will condense more as I go along here so we can get to the next phase. My next section when we stopped was to go over the original 16 cases, the 15 to which they responded to. I have given you brief information on the new investigations. I will just leave for reading purposes the information we had on the earlier cases rather than taking the time here.

As I noted above, inspection teams comprising both State and Customs officials have visited three suspected prison labor facilities, and we have longstanding requests to see five others. This includes one in Yunnan where we had a visit, which was inconclusive because local authorities denied the inspection team access to three areas of the factory compound. Up to now requests for a revisit have been denied. Accordingly, the detention order on products from the Yunnan facility remains in effect. We will continue to press for more definitive information.

In two cases, examination of prison records in facilities produced no evidence that these facilities were exporting any of their products to the United States. As a result, the joint Customs-State investigation team in June recommended the closure of these two cases. Customs is currently studying evidence obtained from visits to these two sites to make a final determination on them. Commissioner Weise and I have talked about this and he can address their status in greater detail.

Implementation of the MOU has been slow from the start. But the Chinese cooperation picked up somewhat following the March visit here of a Chinese delegation. We felt that the trip was generally successful at the time. It allowed the Chinese officials to hear our concerns firsthand, and they, of course, saw you, Mr.

Chairman, and your staff. They met with officials at State, Customs and NSC and business groups, and they toured American prisons, including the industry facilities. I think this had a useful impact on the Chinese.

We have registered complaints many times with the Chinese. Perhaps predictably the Chinese have some complaints of their own. They have recently expressed frustration at our failure to close any of the outstanding cases. They believe these should be closed and final determinations made before any more site visits are requested. They keep emphasizing that U.S. Customs has not resolved any cases despite several visits to facilities.

Again, some more details about the Chinese position are in my statement, including their repeated questioning of the adequacy and timeliness of our evidence. Again, Mr. Chairman, I just want to be fair and lay out their position without necessarily subscribing to it. For our part, we have repeatedly encountered Chinese delays in providing responses to our requests for visits, and their investigation reports often lack detail. Prompt investigation of suspected facilities is in the interest of both the United States and China, yet we have been granted access to only one facility for which we asked to visit. Then I point out that the decentralization of authority in China, which is generally beneficial in many respects for a freer environment, sometimes may hamper prompt enforcement of our agreement, whereas the visits to two Beijing area prisons were more efficiently arranged and provided broad access. So this is another complication.

Chinese officials always blame the provincial and local officials at sites where they say they have lack of control. However, this is no excuse for foot dragging on a bilateral agreement of such importance. We must and we will continue to press the Chinese for more, better, and faster responses and cooperation. Then I point out that the MOU has encouraged Chinese cooperation in several other Customs-related areas, and I list those. There are some encouraging signs in this general area, but a great deal remains to be done. I have already mentioned the increase in staff at the Embassy, and the basic impetus behind doing this is the prison labor issue. Even with increased involvement on the ground it is difficult to estimate whether or how many prison labor-made goods enter the United States through export to a third country and subsequently export to here.

Similarly, it can be hard to determine the origin of goods shipped to local trading companies and then exported to the United States. U.S. business can assist U.S. officials in these efforts, and we would urge American business people who travel to China to consult with their Chinese trading partners, encourage them to watch for possible violations of our regulations, and obviously any suspicions should be brought to the attention of U.S. officials. In addition, we welcome information from other organizations which might identify violations. For example, as was already mentioned, the Laogai Research Foundation and its head, Harry Wu, have researched numerous Chinese facilities in an effort to identify prison labor-produced exports, sometimes at great personal risk.

The good faith of both parties, the United States and China, is critical to the successful implementation of the MOU. We have re-

peatedly underscored the importance we attach to this issue. This year China's progress in stemming exports of prison labor-produced goods through the implementation of the MOU, together with freedom of emigration and other human rights concerns will be scrutinized in determining our recommendations on Most Favored Nation trade treatment for China.

In the coming months, we will continue to evaluate Chinese actions in this area, including positive, prompt, and complete access to suspected forced labor sites. This will not be an "easy-to-meet condition" as you noted in your statement, but it is a fair one for we are not making new demands of the Chinese. We merely seek the faithful implementation of past agreements. We firmly hope we will see progress. It is in the interest of both countries that we do so.

In conclusion, Mr. Chairman, our ability to implement the MOU effectively will depend in large part upon Chinese willingness to cooperate with U.S. officials. There was some improvement after the visit of Chinese officials here, and now it seems to have dropped off except for what we learned yesterday. Let's hope that is a step forward. We need to restore momentum. At the same time, on our part, we ought to either resolve those cases we can or ask for whatever information we lack. I wish to assure you and the subcommittee that the administration will continue to pursue actively President Clinton's commitment to implement this agreement decisively. Our goal is to ensure that no goods produced by prison labor enter this country in violation of U.S. law. I would be pleased to answer your questions. Thank you.

[The prepared statement of Mr. Lord appears in the appendix.]

Mr. GEJDENSON. Thank you. We are next privileged to hear—is your schedule all right that we can hear from Commissioner Weise and then go back to you? Is that all right?

Mr. LORD. Sure. At your pleasure.

Mr. GEJDENSON. We next hear from the Honorable George Weise, Commissioner of the U.S. Customs Service and an old hand on the Hill here.

Mr. WEISE. Mr. Chairman, thank you very much. It is a great pleasure and honor to be here with you today after spending the last 9 years working on the congressional side, being used to being on that side of the table rather than this side of the table. I have had wonderful experiences dealing with this subcommittee and the leadership you have provided. I want to commend you.

Like Ambassador Lord I would like to have my full statement submitted for the record and I will summarize.

Mr. GEJDENSON. Without objection.

STATEMENT OF HON. GEORGE J. WEISE, COMMISSIONER, U.S. CUSTOMS SERVICE

Mr. WEISE. I am particularly pleased to be here today, Mr. Chairman, to have an opportunity to discuss an issue of great concern to both this subcommittee and the U.S. Customs Service, the illegal importation of products made by prison labor.

Let me begin by assuring the subcommittee that the Customs Service is concerned about the illegal importation of goods produced by prison labor, and there are a number of reasons why this

is so. First, the importation of goods manufactured wholly or in part by convicts, forced or indentured labor is with certain exceptions prohibited under law.

Second, the importation of goods produced by prison labor jeopardizes the efforts of Americans who are trying to run businesses and work the assembly lines on a level playing field. For all these reasons I would like to emphasize both my own and the Customs Service's strong commitment to the enforcement of this Nation's commercial and criminal laws.

At the present time the Customs Service has made the investigation into the illegal importation of prison labor-produced goods a priority under the 1993 national trade enforcement strategy. There are, of course, numerous obstacles to overcome before we can fully resolve this problem. But at the U.S. Customs Service we will continue our efforts to identify, document, and resolve cases involving individuals or companies that continue to profit through the use of prison labor.

As you are aware and as Ambassador Lord clearly specified, the laws affecting Chinese labor imports in part are manipulated through a memorandum of understanding with the Chinese Government or affected by such a memorandum of understanding. I will not go over and duplicate some of his discussion of that memorandum of understanding, but let me say at Customs that we also have concerns about the ongoing implementation and Chinese compliance with the letter and spirit of the agreement. In fact, as recently as 48 hours ago, as the Ambassador just pointed out, the Chinese had only responded to 16 of the 31 U.S. requests for investigations under the MOU and had only granted 1 of 5 requests to inspect suspect facilities.

I might point out, Mr. Chairman, that I don't think it is a coincidence that just yesterday we received the remaining responses to the 15 outstanding investigations, one day before this hearing. I would like to commend you for your leadership. I think there was some responsiveness to the timing of this hearing in getting those additional requests fulfilled. I would also at this point, Mr. Chairman, like to request permission to correct my long statement for the record which was submitted 2 days ago and did not reflect that these remaining cases had now been responded to.

Mr. GEJDENSON. Without objection.

Mr. WEISE. All of the investigative reports that we have received from the Chinese Government have been very brief and they also lack sufficient detail for Customs to resolve the issue. Similarly, in the one visit that was conducted by U.S. representatives at a suspect facility, we were denied access to parts of the compound. The Chinese have also denied a U.S. request to revisit that facility.

On other occasions, the United States asked the Chinese to investigate two suspect facilities. While the Chinese complied with that request, they also decided additionally to arrange visits to those two suspect facilities for U.S. investigators, even though United States had not requested these visits. While U.S. investigators did witness prisoners manufacturing certain products at these two prisons, not surprisingly we were unable to uncover evidence of exports of the commodities being produced.

Finally, the Chinese have indicated that they are unwilling to take action on future U.S. visits under the MOU until the United States advises the Chinese that we have resolved the issues concerning these two facilities. Mr. Chairman, the lack of timely and thorough Chinese investigations and U.S. inspections of suspect facilities continues to be the primary problem as it pertains to Chinese compliance with the MOU. In those instances where the Chinese have denied requests for visits, they have contended that outstanding issues have been resolved to their own internal investigations and reports or by visits from U.S. consular officials not trained in these matters and made prior to the MOU.

The U.S. position is a different one. We believe the Chinese investigations did not provide the evidence necessary to "resolve specific outstanding cases," which is the language of the MOU, and therefore visits by properly trained U.S. representatives were indeed required.

Mr. Chairman, we will continue to insist that the Chinese honor our request for four visits and one revisit of suspect forced labor facilities, but until the Chinese honor these requests and demonstrate a willingness to fully cooperate with the letter and the spirit of the MOU, I see no reason to consider lifting any existing detention orders or findings.

As you know, and as the Ambassador pointed out, the Secretary of State is charged with making a recommendation to the President next year as it relates to the Chinese compliance with various conditions set forth in the May 28, 1993, Executive order renewing MFN for the People's Republic of China. Among those conditions is China's compliance with this MOU.

The Customs Service will continue to monitor China's response to U.S. requests under the MOU, including the timeliness and completeness of Chinese investigations, U.S. access to Chinese suspect facilities and records, Customs seizures of violative goods, the number of complaints in intelligence that Chinese forced labor produced goods are being exported to the United States, and the results of Customs civil and criminal investigations. I will also make this information available to the Secretary of State to assist in the formulation of his recommendation to the President. Meanwhile, Customs will continue to work with the Chinese in an attempt to gain greater compliance with the letter and spirit of the memorandum of understanding.

Later this month we are sending a representative to China in conjunction with the opening of our new Customs office in Beijing that the Ambassador referred to. By the way, that office is now opened. This past weekend we got that office open. The office will be staffed by an attaché and an assistant attaché. Our representative will be meeting with the Chinese to discuss a number of issues relative to Customs operations in China, including our concerns relative to the MOU.

At this time, however, I believe it is important to make a clear public record on this issue. While our Governments may have had differences in interpretation of the MOU, clearly the Chinese can and must demonstrate a greater commitment to its success. On December 5, 1991, my predecessor, Commissioner Carol Hallett, testified before this subcommittee on Chinese forced labor imports. I

would like to review some of our accomplishments in regard to this matter since that time and outline the direction in which I intend to take the Customs Service on this very important issue.

The Customs Service has worked diligently to obtain the information necessary to support the issuance of detention orders and findings relative to commodities suspected of being produced by convict or forced labor. As of September 8, 1993, the Customs Service has issued 24 detention orders for 24 different commodities from 22 suspected forced labor facilities in China. Five findings have been issued on commodities that were initially the subjects of detention orders, specifically on diesel engines, socks, tea, machine presses, and sheep skin and leather. These are noteworthy achievements, and we have made progress in other areas as well, particularly on the domestic front.

However, the fact remains that during the 3 years the Prison Labor Program has been in effect, Customs has actually identified only a minimal number of illegal exports to the United States. We continue, however, to receive information that such exportations are occurring. While the Customs Service is sensitive to the concerns of the legitimate importing community on this issue, importers also have a responsibility to scrutinize their import transactions and refuse to purchase goods produced by prison labor. At Customs we remain committed to the elimination of this practice, and we will continue our efforts to implement the current prison labor MOU to the best of our abilities.

I hope that Customs may at some time in the future have a reason to reassess the current standing of detention orders and findings, and I hope, as well, that recent actions by this administration will serve to promote cooperation from the Chinese on this issue. Thank you, Mr. Chairman, for your patience and your attention. I would be more than happy to respond to any questions.

[The prepared statement of Mr. Weise appears in the appendix.]

Mr. GEJDENSON. Let me ask one question that comes up consistently from those who have not been supporters of restrictions on China and actions on slave labor, and that is that we are almost alone in this battle, that our European allies and other Western democracies, other governments around the globe don't take these actions and that—what are we doing to include our allies, other members of the U.N., other nations, in this struggle, Winston?

Mr. LORD. Well, it is, frankly, a more general problem with respect to our China policy. To the extent that we can have multilateral pressures or discussions with the Chinese, it will be all the more effective, so we are not always the one taking the lead or others are picking up advantages if we are tough and they are not. That would include this area.

We have encouraged others to join us in a whole range of issues. Sometimes they are helpful. Sometimes, for commercial or other reasons, they are not. So I think you put your finger on a part of our problem tactically with the Chinese. We are going to encourage as much as we can others to join us. But even if they don't, whether it is because of our laws or because of our principles, we have to go ahead, it seems to me. You do pay a certain price sometimes when you do that.

Mr. GEJDENSON. I am not looking for an answer here today, but I would say that, you know, if you can think of ways that the Congress can be helpful, Commissioner Weise, you indicated that possibly this hearing encouraged the Chinese to come forward with some actions on cases that they had not responded to in the past. If you think of a congressional role, if we can play a role in helping push this issue with our friends and allies, it is something we are certainly eager to do.

I am going to have the privilege of going to the floor and voting again. My friend Mr. Faleomavaega here may want to take over the Chair and ask his questions now.

Mr. FALEOMAVAEGA. I will go ahead and present my questions.

Mr. GEJDENSON. OK, great.

Mr. FALEOMAVAEGA [presiding]. Thank you, Mr. Chairman.

I would like to offer my personal welcome to Ambassador Lord and also Commissioner Weise for your attendance in providing the subcommittees with the testimonies. I do have some questions I would like to pursue, if I could.

I think in—the Chairman just took the words out of my mouth I was going to ask. What is to prevent China from continuing this practice of using prison labor for its export products to other countries?

Is there anything that is going to prevent the PRC from doing it to other countries even though we are pursuing this on our bilateral basis? There is really nothing we can do about it; can we?

Mr. LORD. The Commissioner may wish to comment on whether other countries have laws like we do and whether they enforce them. I am told, and I don't know the details of this, that Australia and some European countries are concerned about this issue and on the aid front have taken some actions. But I am not sure that was with respect to China; probably they were related to human rights in general. But in this specific issue, I don't know of much support.

Do you happen to know, Commissioner?

Mr. WEISE. I am just checking myself, Mr. Ambassador. It does not appear, at least from our perspective, that many other countries actually have the same laws that we have in terms of a prohibition on prison-produced goods. It is one of the difficulties we face in Customs as we go through and do our investigations when we are able to get into Chinese facilities.

In every instance where we have had that opportunity, we have actually witnessed that there was clearly produced prison goods, but what we have been unable to corroborate or substantiate is if there is a direct exportation of those goods from that prison to the United States. And that has been the difficulty, when the complaint has been made by the Chinese Government that once we get in there and we don't find documentary evidence that these goods are being exported to the United States, that we should therefore remove the outstanding detention orders.

Mr. FALEOMAVAEGA. So what you are saying, Commissioner Weise, if I read your statement correctly, and what you—despite the MOU that we signed in August of last year, and making this quite clear that it is a clear violation of our own labor laws, the practice continues; is that what you are saying?

Mr. WEISE. There is no question. I think even the Chinese Government does not deny that there are products produced in prisons in China. What they allege is that they are not being exported to the United States. They are either being sold for domestic consumption in China or they are being exported to countries that are not—do not prohibit such production.

Mr. FALEOMAVAEGA. Has the office made an assessment in terms of the value of such products that have been exported from China to other countries, as well as to the United States, on a percentage basis? I mean, any indication on the products that have been exported to our country, specifically.

Mr. WEISE. We have not been able to quantify the problem. We know that the problem exists, we hear anecdotal evidence that it exists, but we have not been able to quantify the magnitude of the problem.

Mr. LORD. The only figure that I have seen, is a Chinese figure, so we have to rely on them in this case. My staff will correct me if my memory fails me here, but I believe in 1989, the Chinese listed about \$100 million in exports of prison labor goods worldwide. It wasn't broken down for the United States, and their trade at that time was something like \$52 billion. So it is a very small percentage. But that is by Chinese figures. That is all I can remember seeing with respect to statistics on it.

Mr. FALEOMAVAEGA. I think Congressman Roth made a very astute statement, observation, I think, Ambassador Lord, Mr. Secretary, you may want to comment on—and the question about our own sets of moralizing the issues and pointing the finger at China, and to be a violator of our own work ethics and to saying that if this situation does not occur—and I would like to ask, do other countries, as far as we know of, do other countries provide for this kind of practice, using prisoners, forcing prisoners to provide labor?

Mr. LORD. Well, again, I would like the Commissioner to comment. I believe the international standards, at least our standards are somewhat along the following lines: That, obviously, prisoners in various countries can be made to work and, indeed, in our own country we encourage prison labor. I believe they usually volunteer and they are paid for their services.

I believe the distinction, as we see is it, is that if someone is convicted in a court of law of a crime, they can be legally, from our standpoint, made to work. However, if they are not convicted in a court of law, if it is by administrative or legislative procedure, or some local officials detaining someone, then they should not be required to work. And even those convicted in a court of law, at least in our view, if convicted merely for expressing peacefully their political views, should not be made to work.

So this does not mean there isn't—shouldn't be prison labor. There is in our own country. But it is the category of prisoner and what they have been convicted of that we think determines whether it is fair or not. But I would welcome any corrections on my semi-legal interpretation.

Mr. WEISE. Yes, absolutely no correction.

I would point out, however, that the Customs Service is currently investigating allegations of products produced in prison labor, by prison labor, and exported to the United States from three other

countries. These are very sensitive, ongoing investigations and I would not be able to divulge them on a public record.

I would be more than happy to provide private discussion with you where these three other allegations were taking place.

Mr. FALEOMAVAEGA. I raise another issue and I would welcome both of you gentlemen's comments. We talk about prison labor usage, as we have indicated, the PRC has done so. What about the issue of child labor?

I would like to think that child labor is just as abusive, probably even worse, in my humble opinion. Here we are extending a very forceful concept in saying that prisoners should not be used, forced to do any kind of performance of employment for purposes of exporting these products to the world. But I understand other countries of the world use child labor and these children are forced, without even having the color of law or some legal entities, and saying you are now a prisoner and our concept of saying you shouldn't be forced to work.

What about the area of these children being forced to work, and I consider them slave labor, as far as I am concerned. And I don't want to mention the names of the countries that do this, but I would like to think that prison labor is just as bad as child labor, children being forced to do work, as much as 10 to 12 hours a day, 5-, 6-year-old children.

We have had reports from the media and various periodicals have commented on this. Do you consider this to be in the same vein of what we are talking about in this issue?

Mr. LORD. Well, of course, I am against child labor. People can disagree which is a more severe crime, but it is certainly something that should be prohibited. I can't speak worldwide. There is clearly abuse, there was some in our own country for many years as well.

What I do know about China is that, again, it is against the law in China, as are many other things. They have not a bad looking constitution, in some respects. The issue is implementation, either by central authorities or by local authorities.

Again, I don't have specific facts here today, but particularly in southern China, it would appear that this law is not being implemented religiously. And, of course, it is particularly difficult to monitor this on farms where people work in the fields. And a good part of China's population, of course, is peasants in the farm area. But beyond that, I wouldn't be able to comment today.

Mr. FALEOMAVAEGA. Mr. Weise.

Mr. WEISE. Congressman, I would simply point out that although there is not a separate specific statute dealing with child labor, that the statute we are talking about speaks in terms of goods manufactured wholly or in part by convict, forced or indentured labor. So the situation you described, whether it be adults or children that are being forced to work against their will, would be covered by the very same statute. And I would agree that we should pursue that with equal, if not greater, vigor as to what we are doing on the very issue that we are talking today.

Mr. FALEOMAVAEGA. As a matter of the administration's policy, are we pursuing that, as a matter of fact?

Mr. WEISE. We have pursued investigations of alleged child labor. We have not, in my knowledge, and I have just talked to

some of the people that are with me, have not had a successful prosecution under that statute up to now.

Mr. FALEOMAVAEGA. But vigorously we are pursuing the issue?

Mr. WEISE. Yes, we are.

Mr. FALEOMAVAEGA. Mr. Chairman.

Mr. GEJDENSON [presiding]. Thank you.

Mr. FALEOMAVAEGA. I have one more question.

Mr. GEJDENSON. Go right ahead.

Mr. FALEOMAVAEGA. I am not one to say that what the Peoples Republic of China is—you know, we can say that they have done something wrong, and it is wrong as far as our laws are concerned, also to make a judgment and to say that if the PRC's capability in terms of the proportional ratio of things—if I may clarify my statement on that, Mr. Ambassador. We are talking about 1.2 billion people here, you have a centralized government, a kind of bureaucracy, where they are going through a transformation period from a Communist to a capitalist market, free market type thing. So all of these things come into play. And we are making some very stringent demands on the government that they produce this and that, I mean down the line—but do you think perhaps that are we making the same demands of other countries?

Here is the largest, most populated country in the world. Do you think that asking them to do these things, they have to be respondent immediately, that they do have the capability to do this kind of thing?

I am just trying to get this in a matter of perspective. We are 250 million people, we have a good government, we try to do things, we have a \$400 billion deficit and all this.

They have got 1.2 billion people. They have got a government. And I would imagine that they have got problems that are probably even a hundred times worse in their leadership, what they have to try to resolve. And I just wanted to see from your perspective, if we are looking in terms of perspectives, can they do better or will they be able to do better under the conditions that they are now in economically, socially—and, you know, feeding 1.2 billion people to me is just an awesome task, just to think about that itself.

I think it is something that, on the other side of the coin, should be commended for what they are able to do for a Communist country.

Mr. LORD. Well, I think that is a fair and interesting observation, at least as one approaches human rights and other objectives with various countries around the world. We like to think we reflect that in our policy.

We do not deal with China as we do with England, obviously, but we do not deal with China as we do with Libya or Iraq. We have a more mixed and nuanced policy as befits the mixed and nuanced situation there compared with those other extremes.

So we are trying to engage the Chinese. We do have cooperation in various areas today on the Korean, nuclear issue, and Cambodia, and we are trying to make progress with China, an important country. At the same time, whether through laws or through principles, we have serious concerns.

Now, getting to a point that Congressman Roth mentioned earlier, I am sorry he is not here, we are not telling the Chinese to

adopt the American model of democracy. We are asking them to live up to universal principles of human rights to which they subscribed in the United Nations.

It is not a matter of imposing our values. We understand that different countries have different cultures and different histories, and maybe even have to have a different pace. But we feel that the universal principles should be adhered to.

A good many of our problems with the Chinese are in implementation. We are not making new demands, particularly in trade and nonproliferation. We are asking them to live up to past agreements. But there is no question that as part of our policy, we think we should and do take into account, China's problems of size and the sometimes legitimate argument they make, sometimes it is a facade, that the central authorities can't necessarily implement everything in the provinces. That is a legitimate problem at times.

But with the best of wills, with that sprawling country in transition, with its huge population, even though they try, they can't necessarily carry things out. So that is something to keep in mind, even as it sometimes can be used as a rationale for not acting.

So this is a much bigger question than I can give proper attention to now, I think it is a fair observation, but we like to think the kind of nuanced situation that China faces is reflected in our nuanced policy toward them.

Mr. FALEOMAVAEGA. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

Mr. GEJDENSON. Between now and next June, the Chinese volley back and forth with the two of you making some accommodations and doing a lot of blocking and stalling, and come around next June, they find new principles and new commitment, and then all of a sudden, we are into a new MFN cycle. It seems to me that at least for the Congress' part, we have got to see real results starting with the new year, and see those results actually being implemented without the kind of obstructions that we see here. Is that the position of the administration?

I mean, I think the danger here is you get led on through a process that brings you into, you know, maybe even May, and in May they have all these new commitments to solving the problems and you are working out details and it is one more extension. And I understand the pressures on, you know, companies from around the country, that sell products to China, we do have, I think, a \$10 billion or \$12 billion trade disadvantage with the Chinese, and I visited factories in my district that are competing directly with the Chinese. Now I don't know, frankly, if it is a prison labor product or not a prison labor product, but it is difficult enough to compete with them in any circumstances.

How do you see this developing? We have to start seeing results relatively soon, I think.

Mr. LORD. Well, first, a quick note on the trade deficit. I wish it was the size you mentioned. It is almost twice that, at least it is apt to be this year. You almost used talking points that we have used with the Chinese, Mr. Chairman, ever since May, in which we say that we felt this was a fair outcome last May, one which reflected the President's principles on human rights and other areas

enabled us and the Chinese, to cooperate. We were prepared to listen to their concerns, to move our relationship forward.

The Congress, in close conjunction with the administration—we had a united front, which is very helpful—agreed to an Executive Order on human rights conditions only. These other areas are extremely important, but they weren't explicitly linked. And we felt the human rights conditions were reasonable. You are familiar with them.

So we took that and went to the Chinese and said now we have got to make progress and we can't wait. Just the point you made, we don't want to come up against deadlines, let's try, through an exchange of visits and meetings and negotiations on a whole range of problems, let us try to make progress. And we have got to do it quickly. We have been saying that since May.

On the specific issue of human rights, I would have to say that it has been disappointing so far. So, obviously, the final judgment on renewal of MFN will have to come next spring. But we cannot wait until next spring to start making progress, I cannot agree more.

Mr. GEJDENSON. George, your power to—you presently have all the law you need to ban entire categories of products; is that correct?

Mr. WEISE. It is a little unclear exactly how we could do that. For example, if we knew that rubber footwear was being produced in certain plants in China, I think that it would be difficult for us to withstand a legal challenge if we, in effect, banned all rubber footwear that may be produced in perhaps 150 or more different facilities in China, only 1 or 2 of which may have been a prison.

On the other hand, if we had a clear indication that certain rubber footwear was produced in a prison, but others in the same shipment that were mingled together were produced elsewhere, we could seize that entire shipment. But it would be difficult to have a blanket exclusion for a product.

Mr. GEJDENSON. But isn't that what we really ought to be looking at? Because what happens is if I am a Connecticut manufacturer, in eastern Connecticut, to put human rights aside for a moment, and I make tie-downs and clamps, now a lot come in from China, I don't know if they are made in prison labor or not, but if 25 percent of my competitor's product is made by slave labor, that brings down the overall cost of the products even if not made in slave labor. And if they can confuse the issue sufficiently as far as what is coming here or what is going elsewhere in a world competitive market, we end up losing out.

You know, it seems to me that there needs to be at least the authority, and maybe you might look at some statutory language that we would be happy to author here, that at least gives you the authority to say that what this entire category of products is doing is subsidized by the prison labor, it maintains their market, and maintains the prison system, and therefore we are going to stop a category of products. I once used the example of: If you are not careful, you end up in this situation; if you rob a bank of \$1 million, take \$1 million out of it but you slip \$1 of your own in there and shuffle it up, if the government couldn't prove which dollar was the honest one, they wouldn't let you keep all of them. And

in the same sense, if we can't prove which 25 or 30 percent is the stuff made in prison labor, that shouldn't preclude us from taking action if we know that is playing a significant role here.

I want to give Mr. Roth some chances to ask his questions, because I think that if we can—his heart's in the right place, if we could just get him there.

Mr. ROTH. Well, thank you, Mr. Chairman. I guess my heart is in the right place, at least I hope so.

I want to tell you, Mr. Ambassador, that when we take control of this body, we are not going to have all these votes. We are just running back and forth all the time, doesn't give one a chance to sit down and really, you know, think things through well enough.

You have been involved in China now for, what, 20 years, ever since Kissinger went over there?

Mr. LORD. That is right.

Mr. ROTH. Now, there are some of us, when we sit around the cloak room and talk about these issues, that feel, yes, we don't like what China is doing, but we feel that you have quiet diplomacy, you get more done with China. What do you think about that?

Mr. LORD. I think in principle that is correct, in terms of face, in terms of keeping things out of the newspapers. But on certain issues and at certain times, these things do go public. I will give you a couple of examples.

On the M-11 issue, we tried to keep this as quiet as possible for as long as possible. We gave the Chinese a lot of time to clarify suspected shipments, and we resorted to public action only when the law and evidence compelled us to do so. Regarding this recent issue of the ship that we thought was carrying chemicals, it was the Chinese who publicized this incident, not ourselves. We would have preferred to have done that quietly.

But your basic point is correct. A lot of things you can do privately that you can't accomplish publicly and if you make public demands often it is difficult for them to respond. But you have to be careful not to let that be a rationalization for not genuinely pressurizing them.

I know those who I feel have been a little too complacent with China at times, always saying we have got to do quiet diplomacy, when it really means we don't want to push them too hard. So your principle is correct, but you have got to be careful in the implementation.

Mr. ROTH. You know, back in my hometown of Appleton, Wisconsin, we do have a number of companies that sell generators, heavy equipment to China. I had a chance to tour the plant, to talk with them, and they go and do a lot of business around China and in China. And their view, of course, is that we are rather shooting ourselves in the foot, because if we don't sell these products to China, then some other companies or some other countries, I should say, like Japan and other countries, will. And that seems to, I don't know, be quite logical to me.

Am I missing something? What do you think?

Mr. LORD. It is a fair comment. It is sometimes a price we pay. We have competing interests in foreign policy, we have commercial interests, we have human rights interests, we have security interests, and you can't always reconcile these. It's all the more painful

if you lose out on commercial interest to others and you don't even have an impact on the target country.

Let me take the M-11 as an example, because I think you were mentioning that earlier. We reached the decision on a Category 2 violation of the MTCR guidelines, which is the lesser of the findings. Namely, it was M-11 related equipment, but it wasn't missiles themselves or major subcomponents.

As a result, only exports, American exports were affected, almost entirely in the satellite industry, because other exports that might have been affected were already controlled from Tiananmen-era sanctions. So here we are with the Chinese doing something we don't like and the way we punish them is cut down our exports when we have a \$20 billion trade deficit.

On the surface, it doesn't look like a brilliant policy. Number one, it is the law. So we obviously have to carry out the law.

Number two, it does hurt the Chinese satellite industry, so it does have some impact on them certainly, not only on our exports, but also on their being able to launch satellites. Our purpose is not to punish China, our purpose is to promote nonproliferation. Nevertheless, in terms of equity, we are not only hurting ourselves, we are hurting China. We are hoping to hurt neither. We are willing to negotiate any time to waive these sanctions, if we possibly can, but they haven't responded.

Number three, we have, in this case, gone to other countries and say, please, do not take advantage of this situation. Whether they will cooperate, remains to be seen.

Didn't mean to give you such a long answer. Your point is well-taken. You have to weigh various considerations. All you can do is try to urge your partners to cooperate and not take advantage, but there are times when that happens.

Mr. ROTH. No, I appreciate that, and I appreciate the extent of your answer, too. I would just rebut by saying that if the policy is not brilliant, but we are doing it because it is a law, then what we should do is change the law. And I think in the world that we are living in today, people like yourself, myself, I have to reassess everything.

For example, I would go to the floor—few short years ago, we have got to buildup our military because of the way the world was. But the world has changed. So recently, I have been voting against cutting a great deal of military spending, although I am a conservative person.

I think in the State Department, and I think in our diplomacy, I think we have to take a look at the world we are moving into to recognize that the old standards, the old rules, no longer really are applicable. We have to think in a new and act in a new and not just use that as a chimera, but actually go to the process and say what kind of world are we going to have in 5, 10, 15 years, and acclimate to that.

Mr. LORD. I want to make one clarification, as required here, because I don't want to be quoted by the press or have you misunderstand a question of brilliance with respect to this policy. I said it would appear not to be brilliant, based on how I described it, and I went on to explain how I think it was perhaps less unbrilliant

than perhaps I led you to think when I first said it was unbrilliant. So I hope I haven't confused the situation.

I support the policy not just because it is law, but because it is an effective way to support nonproliferation. I was merely addressing the argument by saying on the surface I can fully understand why American businesses don't quite understand offhand why they are getting penalized for Chinese behavior.

Mr. ROTH. Mr. Chairman, just one more question, then I will be at an end. You know, when I talk to our business people and they tell me that they just have come back from China, they drove for a half hour, they didn't come to an end of construction, of construction for one-half hour of driving, and they asked the driver how much further will we have to drive until we come to the end of this cycle of construction, the driver said, oh, you have to probably drive another hour and a half.

I said to our business people, is anything like that going on in America? They said no, we are not—China is just going like a house afire, to use that term. Nothing like that is going on in America.

You know, Mr. Ambassador, the era that you and I come from is when America was the top of the world. We could dictate how things were going. But that is no longer going to be the case in a few years or even now.

The world is changing. There are a lot of Americas out there. And that is why I think that we have to think, rethink the direction we are going in. Or we are going to shoot ourselves in the foot.

Mr. LORD. Well, again, this is a larger discussion. Maybe we can have a discussion at some point. I know business people think we are too tough on China. Some human rights groups think we are too soft on China.

We think we are perfect on China. But these are complicated questions and there are a lot of tradeoffs. We do try to perfect this.

I responded in your absence to the philosophical problem of nuances toward China, given the fact, they are moving in the right direction. They can't always control their provinces, et cetera. So we do try to strike a balanced stance, we do want better relations with China, but we are going to need their cooperation.

Mr. GEJDENSON. Well, I would say that the majority of the Congress supports the policy. Frankly, a large portion of the Congress would like a much tougher policy.

On a number of issues, on the human rights issue, obviously, what is going on there is an outrage to most Americans. Somebody like Harry would, who has not only suffered from the system, but had the courage to go back in and see a Chinese official, when asked how they maintain quality control in the prisons, said that they beat them.

Americans don't want to benefit from products where the workers are threatened with beatings to make sure that production and quality is maintained. Missile proliferation puts American military personnel and our allies in a dangerous position. And the Chinese, who are playing a role that will help destabilize the world in this area, need to join the other family of nations to try to stop missile proliferation, and that provides safety for Americans and our allies across the globe.

And while there are businesses in my State, and my colleague's State, that benefit from trade to China, there are certainly many more workers and businesses in this country who are at a disadvantage when they have to compete with Chinese products made, first of all, by workers who make not in a day what most of our workers make in an hour, but that we are ready to compete with. But when our workers and our management and our companies have to compete with products that are made by prison labor, that, frankly, is not just bad human rights policy, it is bad economic policy for the United States.

I think as a country, our workers and our country are ready to compete with the Chinese. We want to be friends with the Chinese, but they have to take some steps toward living in the family of nations.

And I want to commend both of you for the work you have done and we want to work with you. If you need new legislative powers, we want to make the effort to see that you have that legislative power. And you know that the door is open here, so just call us when you need us.

Thank you both very much.

STATEMENT OF MIKE JENDRZEJCZYK, WASHINGTON DIRECTOR, ASIA WATCH

Mr. GEJDENSON. The next witness is Mike Jendrzejczyk, Washington Director of Asia Watch.

Please proceed.

Mr. JENDRZEJCZYK. We are pleased and honored to testify here today before this subcommittee and want to acknowledge especially the leadership of the Chairman on this very important issue. New evidence of China's continuing policy of using prisoners to produce goods for export emerged early this year when a former political prisoner, Mr. Xu Yiruo, was released from prison in February and gave an interview to the *New York Times*.

Last week, Mr. Xu provided our office in Hong Kong with a detailed description of his experiences, and his statement is attached to our testimony, and I would ask that it be included in the record.

Mr. GEJDENSON. Without objection.

Mr. JENDRZEJCZYK. Mr. Xu was first arrested and briefly detained in June 1989, because of his pro-democracy activities. He was arrested again in June 1991, after he hung wall posters commemorating the anniversary of the 1989 crackdown. In October 1991, he was sentenced, without trial, to 2 years of forced labor. While detained at the Qingdao No. 1 Municipal Jail, between July and October 1991, in a filthy, crowded cell with 10 other prisoners, he was forced to work an average of 17 to 18 hours per day assembling electric Christmas tree lights for export, as Mr. Lantos referred to earlier.

According to Mr. Xu, and I quote: "Production and marketing was the number one concern of the prison authorities. On numerous occasions, the jail governor and other officials informed us that the goods we were making were for export." I should add, the ultimate foreign destination of these lights was never revealed to the prisoners.

In October 1991, Mr. Xu was transferred to a huge forced labor facility, the Shandong No. 1 Labor Reeducation Center, also known as the "August 3rd Factory," where prisoners manufactured graphite electrodes and other goods. Some of them were forced to do exhausting work, deep underground, mining a rare type of clay for export to the United States, Japan and other markets.

Medical care was rudimentary and industrial accidents in the mine were common. Prisoners were beaten for failing to meet production quotas or for insubordination, and those who "resisted reform" by maintaining their innocence were beaten and treated especially harshly.

Mr. Xu worked in this mine until February 16 of this year, when he was released 5 months before the completion of his sentence. He left behind, still laboring in the mine today, as far as we know, other political prisoners, such as Mr. Shan Zhenheng, a Beijing student, first imprisoned for nearly 2 years in June 1989, for his pro-democracy activities.

The conditions were so appalling in this mine that in late 1990, Mr. Shan attempted suicide by slashing his wrists. Mr. Xu also knew of at least eight Christians, active in an underground Protestant "house church" broken up by the police, arrested and sentenced to 3 years. And they, as far as we know, are still there laboring in this same facility.

Official Chinese Government documents provided by Asia Watch to Customs earlier this year, not only confirmed the information contained in Mr. Xu's statement, but also make it clear that China's policy on prison labor remains essentially unchanged. Forced labor continues, political and religious prisoners and others are used to produce goods for export.

And here I would like to refute the impression that Ambassador Lord created, that the value of these exports is very small. We know, for example, one province, Liaoning Province, in 1985 according to their foreign sales catalog, exported at least \$100 million worth of goods.

And again, I emphasize that is just one province. We have no idea what the figures are nationwide.

Human rights abuses in the Chinese gulag are rampant and unchecked by the Chinese Government. Yet the government continues to repeat denials, hoping that they can trick and fool their way past U.S. Government inspectors while the state continues to rake in a profit.

Mr. Chairman, we were pleased by President Clinton's decision in May to make the prison labor issue a key concern and an absolute requirement for the renewal of MFN next June. However, we have seen no evidence that the MOU or the President's Executive Order have thus far brought any substantial improvement in the U.S. Government's ability to stop prison labor exports.

It was encouraging to hear a little while ago that new information that has been provided to our Embassy in Beijing, but of course we understand and hope that our Government will in no way accept the explanations and denials being offered at face value. We believe that much more needs to be done, and as we have stated in previous testimony to this subcommittee, if the MOU is inadequate to provide access to all of the places where

prisoners are suspected of making goods for export, then it should be renegotiated. Or perhaps a side agreement should be negotiated just on the question of inspections. Also, the administration should consider targeted trade sanctions under Section 301 of the Trade Act or the Smoot-Hawley Act.

On the crucial question of inspections, which our new Customs Commissioner highlighted a little while ago, Mr. Xu's testimony provides vivid evidence of how the Chinese Government continues to manipulation foreigners' access to their prison production facilities. He said that on at least two occasions, it was announced on the closed circuit TV network at the factory where he worked that Japanese businessmen had visited the factory to negotiate export deals.

In November 1991, he said a delegation of Austrian police officers were given a guided tour, and he said, "All the prisoners were evacuated well in advance and the foreign delegation members were shown only the newly spruced-up dormitory building. They were not taken to see the clay mine or any of the production facilities, nor were they allowed anywhere near the punishment block or the solitary confinement cells."

Mr. Chairman, we have recommendations to make for the administration if indeed it does wish to seriously step up the pressure on the Chinese Government in order to get better compliance on its agreements to stop prison labor exports. And I would just like to highlight briefly, in concluding my testimony, our six major recommendations:

One, when Assistant Secretary of State for Human Rights and Humanitarian Affairs, John Shattuck, visits China in the coming weeks, we believe he should present to the Chinese a new list of facilities for inspection, including those in Hunan, Shandong Province, and Liaoning Province, where Asia Watch has documented evidence of export activity, but the Custom Service thus far has been less than energetic in following up.

If the Chinese do not immediately agree to visits without restrictions or delay, we believe the United States should ban from import to this country categories of goods suspected of being prison made.

Secondly, if by the time the administration presents to Congress its 6-months progress report on Chinese complaints with the MFN Executive Order, there has not been substantial improvement in cooperation on prison labor, the administration should raise the tariffs on a limited, targeted number of products, and not wait until next June or July, when the entire MFN trade status is up for question.

We would note, for example, the administration has been willing to threaten or impose economic sanctions due to China's proliferation practices, and even when it comes to protecting endangered species like rhinos and tigers. What about protecting political prisoners?

We saw from the Bush administration's experience that they achieved their greatest success in negotiating and implementing commercial agreements with China only through the threat of economic sanctions.

Fourth, this subcommittee, we believe, should urge the administration to increase the number of Customs officials posted in China to monitor compliance. One or two Customs officials posted in the Embassy in Beijing cannot possibly be expected to monitor compliance effectively. We believe, for example, there should at least be one Customs official in each of the four U.S. Consulates throughout China.

Next, we think the administration should consider requiring on all shipping bills from U.S. importers, information certifying that their goods were not made with prison labor and giving specific information about the sources of production and manufacture in China, including, and this is crucial, subcontractors. We believe such information and such a requirement would not only function as a deterrent, but it would also provide the Customs Service with information useful for their investigations.

Finally, Mr. Chairman, we hope the administration, with support from this subcommittee and from U.S. businesses, will actively support legislation outlining a code of conduct for U.S. companies operating in China. As you know, such a bill was introduced in the House last year by former Representative John Miller, and actually passed in the Senate in a Conference Report last October.

Ambassador Lord said today that U.S. businesses should consult with their Chinese trading partners in order to be sure they are not getting prison goods. Well, unfortunately these trading partners are often precisely the agents used by the Chinese Government to export these goods. So they are hardly going to be the ones to help solve the problem.

We hope such a code of conduct, including a strict provision on prison labor exports, as well as outlining other steps that U.S. businesses could take to promote human rights in China, can be introduced, as I understand Congressman Lantos plans to do in this session, and quickly acted upon both in the House and Senate.

Thank you, Mr. Chairman. I would be glad to take any of your questions.

[The prepared statement of Mr. Jendrzejczyk appears in the appendix.]

Mr. GEJDENSON. Thank you. We want to commend you for the work that you continue to do. This is something that I think America does lead the world in.

Do you have organizations in other countries that are as active in trying to get their governments to be supportive of policies that respond to China's ignoring and hostility toward human rights policies?

Mr. JENDRZEJCZYK. No, but we have been contacted by the Canadian Government. We have been in touch with people in Great Britain, where there are also laws dealing with these issues. The Australian Government has been actively looking into allegations of prison labor exports.

I have been to Tokyo and talked with Japanese officials but I am unaware that they have taken any action. And most importantly, on Hong Kong, I was disappointed Ambassador Lord said nothing about whether the United States has asked for greater cooperation by Hong Kong and Taiwan, since the Customs Service suspects

that a lot of prison-made goods get transshipped through these two countries.

Mr. GEJDENSON. I hope that one of the things you could help us with is mobilizing some international sentiments. I mean, it is important for us who have led this fight in the Congress and for organizations like yours to build allies in other countries. Because one of the arguments that is constantly used against us is that the Australians will simply go someplace else to buy their satellites and then still have them launched by the Chinese, that the French and the Germans and the English will take the contracts away from American companies.

I just hope that your organization, which I commend for its work here, would work to build a basis of support in other countries so that it won't be America's lone voice, as correct as it is, but a chorus of voices from other nations.

Mr. JENDRZEJCZYK. Yes, Mr. Chairman, if I could just add briefly, we know from Chinese Government official documents that prison labor goods have been and are being shipped to countries all over the world. They name at least 80-some countries throughout Latin America, Europe, Africa and Asia. So clearly, this is a worldwide problem.

Secondly, within the G-7, the United States, I think, can exert particular leadership, not only in terms of prison labor, but human rights generally, and with the APEC meeting coming up in Seattle in November, I think the administration has an especially useful and appropriate opportunity to raise the question:

What can our allies do, especially in Asia, to help exert effective pressure on China to live up to its international human rights obligations?

Mr. GEJDENSON. I think that, you know, we have all spent a long time trying to press the U.S. Government's policy in the right direction. I think we have an administration that is committed to the right policy, and their forcefulness will be increased, if we can get some of our allies to join with us.

Questions, Mr. Roth?

Mr. ROTH. Well, I don't have—well, maybe I have a short question.

When we talk about this forced labor, the people that are in prison apparently doing this, manufacturing these products, are they there for—what crimes are we talking about here?

Mr. JENDRZEJCZYK. All kinds of crimes. I mean under existing Chinese law, anyone can be sentenced to do forced labor, including by police authorities, without trial, for up to 3 to 4 years. But what is particularly disturbing to us as a human rights organization, is to see how political dissidents and religious believers are routinely subjected to this kind of abuse and treatment, sentenced to do forced labor.

We know of a case, for example, of a prisoner by the name of Mr. Liu Gang, who is a physics student, active in the pro-democracy movement, who was sentenced to 6 years in 1991. He is in one of the largest prison labor complexes in Liaoning Province. He has smuggled letters out of prison, most recently earlier this year, describing the brutal torture that he has endured.

The Chinese Government, a few weeks ago, issued a photograph in a very cruel hoax, showing him at a computer, happily working away working on his memoirs, as a way of defusing international pressure about his health, which continues to decline severely. A group of U.S. Senators who visited China last December, asked the Chinese leaders, when can we get access to the facility and the complex in which he and other political prisoners are held under the terms of the MOU.

We, however, are unaware that there has been any effort made yet by either the Customs Service or the State Department to follow up on this request. Getting access to prisoners like Liu Gang and other political prisoners like him in the Chinese gulag, we think should be a priority and goal of the administration, which we hope they will very actively pursue.

Mr. ROTH. Thank you.

Mr. GEJDENSON. Thank you. And we commend you for the work, and hope that you keep up the effort.

The hearing is adjourned.

[Whereupon, at 3:30 p.m., the subcommittee was adjourned.]

A P P E N D I X

OPENING STATEMENT PRISON LABOR IN CHINA

HOUSE FOREIGN AFFAIRS COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE

WINSTON LORD
ASSISTANT SECRETARY
EAST ASIAN AND PACIFIC AFFAIRS
DEPARTMENT OF STATE

THURSDAY, SEPTEMBER 9, 1993

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE,

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TO PROVIDE AN UPDATE ON THE PROBLEM OF CHINESE PRISON LABOR EXPORTS TO THE UNITED STATES.

WITH CERTAIN EXCEPTIONS, U.S. LAW PROHIBITS THE IMPORTATION OF "ALL GOODS MINED, PRODUCED, OR MANUFACTURED WHOLLY OR IN PART IN ANY FOREIGN COUNTRY BY CONVICT LABOR OR/AND FORCED LABOR OR/AND INDENTURED LABOR UNDER PENAL SANCTIONS." THE U.S. GOVERNMENT HAS DEVOTED GREAT EFFORTS TO PREVENT PRODUCTS PRODUCED BY PRISON LABOR FROM BEING IMPORTED INTO THIS COUNTRY. WE AT THE STATE DEPARTMENT WORK CLOSELY WITH THE U.S. CUSTOMS SERVICE ALL OVER THE WORLD TO SUPPORT LAW ENFORCEMENT BOTH AT OUR BORDERS AND OVERSEAS.

SPECIFICALLY REGARDING CHINA, WE HAVE STRIVEN TO IDENTIFY AND REPORT ON THE EXPORT OF PRISON LABOR PRODUCTS TO THE UNITED STATES SINCE THE BEGINNING OF THIS DECADE.

IT IS NO MISTAKE OR QUIRK OF BUREAUCRATIC POLICYMAKING THAT LINKED LABOR WITH OUR MFN PROCESS FOR CHINA, ALONG WITH OTHER AREAS OF HUMAN RIGHTS WE ARE DEEPLY CONCERNED ABOUT THIS ISSUE.

I MUST SAY, MR. CHAIRMAN, THAT, WITHOUT STEALING THE PODIUM FROM COMMISSIONER WEISE, I SHARE HIS CONCERN WITH THE CURRENT STATE OF IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING THAT WE SIGNED WITH THE CHINESE.

THIS ADMINISTRATION HAS A COMMITMENT TO HUMAN RIGHTS AND ENFORCEMENT OF THE PRISON LABOR MOU. CHINA'S MFN STATUS IS CONDITIONED ON IT. IT WILL NOT BE EXTENDED IF THERE IS NOT SATISFACTORY IMPLEMENTATION OF THE MOU AND OVERALL PROGRESS ON HUMAN RIGHTS.

AT THIS POINT THERE IS REASON FOR CONCERN. RECENT HUMAN RIGHTS PROBLEMS HAVE OVERTAKEN POSITIVE GESTURES BY THE CHINESE GOVERNMENT. THE OVERALL IMPLEMENTATION OF THE PRISON LABOR AGREEMENT HAS GENERALLY BEEN CHARACTERIZED BY POOR COMMUNICATIONS, SLOW AND CURSORY RESPONSES TO INVESTIGATION QUESTIONS, AND STONEWALLING OR REJECTIONS OF REQUESTS FOR VISITS.

EARLY EFFORTS BY THE U.S. GOVERNMENT TO LEARN ABOUT PRISON LABOR EXPORTS WERE NOT SUCCESSFUL. INCREASING INFORMATION FROM SOURCES LIKE HARRY WU, ASIWATCH AND OTHERS, COUPLED WITH INTEREST ON THE PART OF THE CONGRESS, RAISED THE LEVEL OF PUBLIC AND GOVERNMENTAL ATTENTION TO THESE ISSUES.

IN OCTOBER 1991, PARTLY IN RESPONSE, THE CHINESE ISSUED A REGULATION PROHIBITING THE EXPORT OF PRODUCTS MADE WITH PRISON LABOR. HOWEVER, THERE WAS STILL THE NEED TO ENSURE THAT THESE EXPORTS DID NOT REACH OUR SHORES. CONCERN IN THE PREVIOUS ADMINISTRATION AND THE CONGRESS PROMPTED THE U.S. TO SEEK A MEMORANDUM OF UNDERSTANDING ON PROCEDURES FOR PROMPT INVESTIGATION OF ALLEGATIONS THAT SPECIFIC IMPORTS FROM CHINA WERE PRODUCED BY PRISON LABOR.

WE DID NOT WAIT, HOWEVER, FOR THE PRISON LABOR MOU TO BE SIGNED BEFORE WE TOOK ACTION. U.S. LAW PROVIDES THAT CUSTOMS MAY ISSUE DETENTION ORDERS WHEN INFORMATION REASONABLY, BUT NOT CONCLUSIVELY, INDICATES THAT MERCHANDISE PRODUCED BY FORCED LABOR IS BEING, OR IS LIKELY TO BE, IMPORTED. DETENTION ORDERS DO NOT NECESSARILY IMPLY THAT GOODS HAVE IN FACT BEEN SEIZED. BUT THEY PROHIBIT THE IMPORT OF GOODS FROM SUBJECT FACILITIES INTO THE UNITED STATES. THE DETENTION ORDER CANNOT BE LIFTED UNTIL CUSTOMS MAKES A CLEAR DETERMINATION THAT THE FACILITY IN QUESTION DOES NOT UTILIZE PRISON LABOR ON THE PRODUCTION LINE.

THE DETENTION ORDER ON BLISS MACHINE TOOLS, WHICH RESULTED IN EFFECTIVE PROSECUTION AND PROHIBITION OF IMPORTS OF MACHINE TOOLS MADE BY PRISON LABOR, IS ONE EXAMPLE. I AM SURE COMMISSIONER WEISE HAS MANY MORE. WE HOPED THAT AN MOU WOULD ASSIST CUSTOMS IN MAKING THESE DETERMINATIONS WITH REGARD TO CHINESE FACILITIES.

THUS, AFTER A LONG, LABORIOUS NEGOTIATION IN WHICH WE WERE ABLY ASSISTED BY OUR COLLEAGUES IN THE CUSTOMS SERVICE, THE U.S. AND CHINA SIGNED A MEMORANDUM OF UNDERSTANDING ON TRADE IN PRISON LABOR PRODUCTS IN AUGUST, 1992. THIS WAS A SIGNIFICANT STEP FORWARD IN STRENGTHENING COMPLIANCE WITH BOTH AMERICAN AND CHINESE LAWS AND REGULATIONS PROHIBITING TRADE IN PRISON LABOR PRODUCTS. EFFECTIVE IMPLEMENTATION IS AN IMPORTANT U.S. PRIORITY IN OUR BILATERAL RELATIONS WITH CHINA.

THE MEMORANDUM OF UNDERSTANDING PROVIDES FOR:

- PROMPT INVESTIGATION OF SUSPECTED VIOLATIONS OF THE LAWS AND REGULATIONS OF EACH SIDE RELATING TO TRADE IN PRISON LABOR PRODUCTS;
- EXCHANGES OF INFORMATION;
- MEETINGS BETWEEN OFFICIALS AND EXPERTS OF THE TWO SIDES;
- FURNISHING OF EVIDENCE THAT CAN BE USED IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS AGAINST VIOLATORS; AND
- PROMPT FACILITATION OF VISITS TO RELEVANT FACILITIES UPON THE REQUEST OF EITHER PARTY.

ALMOST IMMEDIATELY AFTER THE SIGNING, THE U.S. CUSTOMS SERVICE ASSIGNED A U.S.-BASED OFFICER TO THE EMBASSY TO FACILITATE IMPLEMENTATION OF THE MOU. SINCE THEN CUSTOMS OFFICERS HAVE TRAVELED FREQUENTLY TO CHINA ON TEMPORARY ASSIGNMENT TO CONDUCT INVESTIGATIONS. THIS MONTH, THE U.S. WILL ASSIGN TWO FULL-TIME OFFICERS TO STAFF ITS NEW OFFICE IN BEIJING. ONE OF THESE WILL BE RESPONSIBLE PRIMARILY FOR PRISON LABOR ISSUES. THIS WILL SUBSTANTIALLY BOOST TO OUR EFFORTS TO WORK WITH OUR CHINESE COUNTERPARTS TO CARRY OUT THE MOU.

LET ME BRIEFLY REVIEW THE PROCEDURE WE FOLLOW IN INVESTIGATING CASES. I WOULD NOTE THAT WE HAVE HAD PROBLEMS AT ALMOST EVERY STAGE OF THIS PROCESS. FIRST, WE REQUEST THE CHINESE TO INVESTIGATE FACILITIES WHICH WE HAVE REASON TO BELIEVE USE PRISON LABOR TO PRODUCE GOODS FOR EXPORT. AT THIS TIME WE PRESENT THE CHINESE WITH WHATEVER HARD EVIDENCE WE HAVE THAT A FIRM IS ENGAGING IN PRISON LABOR TRADE. DEPENDING ON THE RESULTS OF THE CHINESE MINISTRY OF JUSTICE INVESTIGATION, WE MAY ASK TO MAKE A VERIFICATION VISIT TO THE SITE.

SINCE THE SIGNING OF THE MOU, WE HAVE PRESENTED THIRTY-ONE CASES OF SUSPECTED PRISON LABOR VIOLATIONS TO THE CHINESE FOR INVESTIGATION. UNTIL YESTERDAY, THE CHINESE HAD PROVIDED REPORTS ON SIXTEEN OF THESE CASES AND WE WERE AWAITING RESPONSES TO ANOTHER FIFTEEN WHICH WERE PRESENTED TO THE CHINESE IN JUNE. MR. CHAIRMAN, I AM PLEASED TO REPORT TODAY THAT OUR EMBASSY IN BEIJING HAS JUST RECEIVED THE RESULTS OF THE FIFTEEN OUTSTANDING CASES. THE RESULTS OF THESE INVESTIGATIONS COULD HAVE A BEARING ON OUR ABILITY TO IMPLEMENT THE MOU IN THE SHORT TERM. BOTH STATE AND CUSTOMS OFFICIALS WILL BE FOLLOWING UP ON THESE CASES SHORTLY IN MEETINGS WITH THE CHINESE IN BEIJING. THAT THE CHINESE HAVE CONCLUDED THESE INVESTIGATIONS DESPITE THEIR CONCERN ABOUT OTHER OUTSTANDING CASES MAY SIGNAL AN INCREASED WILLINGNESS TO WORK WITH US TO IMPLEMENT THE MOU. LET US HOPE SO.

WHILE WE HAVE NOT HAD A CHANCE TO EVALUATE THE CONTENTS OF THE NEW CHINESE REPORTS, I CAN GIVE YOU A BRIEF SUMMARY OF THEIR FINDINGS.

THE CHINESE INDICATED THAT ELEVEN OF THE FIFTEEN FIRMS EITHER DO NOT EXPORT THEIR PRODUCTS, OR DO NOT EXPORT TO THE U.S.

ON AUGUST 25, 1992, WE REQUESTED VISITS TO FIVE SITES. WE HAVE VISITED ONLY ONE OF THESE FACILITIES, THE JINMA DIESEL FACTORY, WHILE OUR REPEATED REQUESTS TO SEE THE OTHERS HAVE BEEN REJECTED. FOR EXAMPLE, THE CHINESE RESPONDED THAT, SINCE CONSULATE OFFICERS HAD SEEN SEVERAL OF THE OTHER SITES PRIOR TO THE SIGNING OF THE MOU, VISITS TO THESE FACILITIES WERE UNNECESSARY. ON THE OTHER HAND, WE HAVE VISITED TWO SITES WHICH WE DID NOT ASK TO SEE, BUT ON WHICH WE HAD REQUESTED INVESTIGATIONS.

IN RESPONSE TO THE FIRST FIVE CASES SUBMITTED THE CHINESE STATED THAT THEY FOUND NO EVIDENCE THAT PRISON LABOR HAD BEEN USED TO PRODUCE EXPORTS. THE CHINESE SUBSEQUENTLY REPORTED THE RESULTS OF ELEVEN OTHER CASES. OF THESE ELEVEN, THEY CLAIM THAT SIX FACILITIES ARE PRISONS WHICH DO NOT PRODUCE GOODS FOR EXPORT, AND THAT ANOTHER ONE IS A WORKERS COLLECTIVE WHICH ALSO DOES NOT EXPORT. THE CHINESE MAINTAIN THAT IN MANY CASES FACTORIES EMPLOY FAMILY MEMBERS OF PRISON SYSTEM EMPLOYEES, BUT NOT PRISONERS THEMSELVES.

IN THE REMAINING FOUR CASES THE CHINESE FOUND THAT PRISON LABOR HAS BEEN USED FOR EXPORT PRODUCTION IN THE PAST. HOWEVER, THEY MAINTAIN THAT THESE FACTORIES -- THE SICHUAN ZIGONG MACHINE TOOL FACTORY, THE SICHUAN MIAOXI TEA PLANTATION, THE SHANDONG DEZHOU SHENGJIAN MACHINERY FACTORY, AND THE HUBEI XIANGYANG MACHINE TOOL FACTORY -- EITHER HAVE CEASED EXPORTING OR HAVE REMOVED PRISONERS FROM THE PRODUCTION LINE. SICHUAN ZIGONG MACHINE TOOL FACTORY WAS FOUND TO HAVE EXPORTED PRISON LABOR-PRODUCED GOODS TO SOUTHEAST ASIA. DESTINATIONS OF PAST EXPORTS FROM THE OTHER FACILITIES WERE NOT REPORTED.

AS I NOTED ABOVE, INSPECTION TEAMS, COMPRISING BOTH STATE AND CUSTOMS OFFICIALS, HAVE VISITED THREE SUSPECTED PRISON LABOR FACILITIES, AND WE HAVE LONG-STANDING REQUESTS TO SEE FIVE OTHERS. THIS INCLUDES ONE IN YUNNAN, THE JINMA DIESEL ENGINE FACTORY, WHERE THE FIRST VISIT WAS INCONCLUSIVE BECAUSE LOCAL AUTHORITIES DENIED THE INSPECTION TEAM ACCESS TO THREE AREAS OF THE FACTORY COMPOUND. UP TO NOW, REQUESTS FOR A REVISIT HAVE BEEN DENIED. ACCORDINGLY, THE DETENTION ORDER ON PRODUCTS FROM THE YUNNAN FACILITY REMAINS IN EFFECT, PENDING RECEIPT OF MORE DEFINITIVE INFORMATION, FOR WHICH WE CONTINUE TO PRESS.

IN TWO CASES, THE QINGHE FARM AND BEIJING NUMBER ONE PRISON (QINGHE HOISIERY FACTORY), EXAMINATION OF PRISON RECORDS AND FACILITIES PRODUCED NO EVIDENCE THAT THESE FACILITIES WERE EXPORTING ANY OF THEIR PRODUCTS. AS A RESULT, THE JOINT CUSTOMS-STATE INVESTIGATION TEAM, IN JUNE, RECOMMENDED THE CLOSURE OF THESE TWO CASES. CUSTOMS IS CURRENTLY STUDYING EVIDENCE OBTAINED FROM VISITS TO THESE TWO SITES TO MAKE A FINAL DETERMINATION ON THEM. COMMISSIONER WEISE CAN ADDRESS THEIR STATUS IN GREATER DETAIL.

IMPLEMENTATION OF THE MOU HAS BEEN SLOW FROM THE START. BUT, THE CHINESE EXHIBITED GREATER WILLINGNESS TO WORK WITH US FOLLOWING THE MARCH VISIT HERE OF A CHINESE DELEGATION OF OFFICIALS FROM THE MINISTRY OF JUSTICE, THE MINISTRY OF FOREIGN AFFAIRS, AND THE MINISTRY OF FOREIGN TRADE AND ECONOMIC COOPEFATION. THE TRIP, WHICH BOTH AMERICAN AND CHINESE OFFICIALS TERMED SUCCESSFUL, ALLOWED CHINESE OFFICIALS TO HEAR FIRST-HAND THE CONCERNS OF CONGRESS AND U.S. BUSINESS ON THIS IMPORTANT ISSUE. IN ADDITION TO SEEING YOU AND YOUR STAFF, MR. CHAIRMAN, THE CHINESE DELEGATION MET WITH OFFICIALS AT STATE, CUSTOMS AND THE NSC, AS WELL AS WITH BUSINESS GROUPS.

WHILE IN THE U.S. THE CHINESE ALSO TOURED THREE U.S. FEDERAL PRISONS, INCLUDING THEIR INDUSTRY FACILITIES. THE CHINESE RETURNED HOME WITH A GREATER APPRECIATION OF AMERICAN U.S. POLICY.

WE HAVE REGISTERED COMPLAINTS MANY TIMES WITH THE CHINESE. PERHAPS PREDICTABLY, THE CHINESE HAVE SOME COMPLAINTS OF THEIR OWN. THEY HAVE RECENTLY EXPRESSED FRUSTRATION AT OUR FAILURE THUS FAR TO CLOSE ANY OF THE OUTSTANDING CASES. CHINESE MINISTRY OF JUSTICE OFFICIALS HAVE SUGGESTED THAT WE SHOULD REACH FINAL DETERMINATIONS ON FACILITIES ALREADY SEEN BEFORE REQUESTING ANY MORE SITE VISITS. THE CHINESE EMPHASIZE THAT U.S. CUSTOMS HAS NOT YET RESOLVED ANY CASES DESPITE SEVERAL VISITS TO FACILITIES. THEY HAVE RECENTLY INDICATED THAT THEY MAY WITHHOLD RESULTS OF ONGOING INVESTIGATIONS UNTIL SOME OUTSTANDING CASES, NOTABLY THOSE INVOLVING THE QINGHE FARM AND THE BEIJING NUMBER ONE PRISON, ARE CLOSED.

CHINESE AUTHORITIES HAVE ALSO REPEATEDLY QUESTIONED THE ADEQUACY AND TIMELINESS OF OUR EVIDENCE. MOST INFORMATION WE HAVE COMES FROM CHINESE PUBLICATIONS, IN SOME CASES GOVERNMENT ONES WHICH ARE FIVE YEARS OLD OR MORE. OTHER EVIDENCE COMES FROM COMPANY BROCHURES, AGAIN MANY YEARS OLD, WHICH MAY INCLUDE EXAGGERATED OR MISLEADING CLAIMS ABOUT A COMPANY'S ACTIVITES. THE LACK OF HARD, RECENT EVIDENCE HAMPERS OUR ABILITY TO WORK WITH CHINESE JUSTICE OFFICIALS AND MAKES IMPLEMENTATION OF THE MOU ALL THE MORE DIFFICULT.

FOR OUR PART, WE HAVE REPEATEDLY ENCOUNTERED CHINESE DELAYS IN PROVIDING RESPONSES TO OUR REQUESTS FOR VISITS, AND THEIR INVESTIGATION REPORTS OFTEN LACK DETAIL. PROMPT INVESTIGATION OF SUSPECTED FACILITIES IS IN THE INTEREST OF BOTH THE U.S. AND CHINA. YET WE HAVE BEEN GRANTED ACCESS TO ONLY ONE FACILITY FOR WHICH WE ASKED A VISIT.

AS IN MANY OTHER ISSUES IN SINO-U.S. RELATIONS, THE DECENTRALIZATION OF AUTHORITY WITHIN CHINA, WHICH ACCELERATES THE ECONOMIC CHANGES BENEFICIAL TO A FREER ENVIRONMENT, ALSO HAMPERS PROMPT ENFORCEMENT OF OUR AGREEMENT. CONVERSELY, THE VISITS TO QINGHE FARM AND THE BEIJING NUMBER ONE PRISON -- BOTH IN THE BEIJING AREA -- WERE EFFICIENTLY ARRANGED AND PROVIDED BROAD ACCESS BOTH TO FACILITIES AND, PERHAPS MORE IMPORTANTLY, TO RECORDS.

CHINESE MOJ OFFICIALS HAVE REPEATEDLY BLAMED THE STONEWALLING OF PROVINCIAL AND LOCAL OFFICIALS AT SITES FURTHER FROM CENTRAL CONTROL FOR THE LACK OF MORE RAPID PROGRESS ON INVESTIGATIONS AND VISITS. HOWEVER, THIS IS NO EXCUSE FOR FOOTDRAGGING ON A BILATERAL AGREEMENT OF SUCH IMPORTANCE. WE MUST CONTINUE TO PRESS THE CHINESE FOR MORE, BETTER AND FASTER RESPONSES AND COOPERATION.

PERHAPS EVEN MORE THAN IN PRISON LABOR, THE MOU HAS ENCOURAGED CHINESE COOPERATION IN SEVERAL OTHER CUSTOMS-RELATED AREAS. CUSTOMS SPONSORED A SERIES OF HIGHLY SUCCESSFUL TRADE FAIRS WHICH OUTLINED FOR CHINESE ATTENDEES HOW OUR CUSTOMS PROCEDURES AND REGULATIONS APPLY TO CHINESE BUSINESSES. WE HAVE ENCOURAGED THE CHINESE TO CONSIDER A SIMILAR PROGRAM IN THE U.S. TO ACQUAINT U.S. BUSINESSES WITH CHINESE LAWS. AT THE SAME TIME, CUSTOMS IS CURRENTLY NEGOTIATING A MUTUAL ASSISTANCE AGREEMENT WITH CHINA.

THERE ARE ENCOURAGING SIGNS, BUT MUCH MORE REMAINS TO BE DONE.

I HAVE ALREADY MENTIONED THE INCREASE IN STAFF AT THE EMBASSY. ALTHOUGH WE HAVE A NUMBER OF CUSTOMS-RELATED ISSUES WITH THE CHINESE, THE IMPETUS BEHIND SETTING UP AN OFFICE AND A MAJOR PART OF ITS WORKLOAD WILL BE PRISON LABOR. EVEN WITH INCREASED INVOLVEMENT ON THE GROUND, IT IS DIFFICULT TO ESTIMATE WHETHER OR HOW MANY PRISON LABOR MADE GOODS ENTER THE U.S. THROUGH EXPORT TO A THIRD COUNTRY AND SUBSEQUENT RE-EXPORT TO HERE. SIMILARLY, IT CAN BE HARD TO DETERMINE THE ORIGIN OF GOODS SHIPPED TO LOCAL TRADING COMPANIES AND THEN EXPORTED TO THE U.S.

U.S. BUSINESS CAN ASSIST U.S. OFFICIALS IN THESE EFFORTS. WE SHOULD URGE AMERICAN BUSINESSPEOPLE WHO TRAVEL FREQUENTLY TO CHINA TO CONSULT WITH CHINESE TRADING PARTNERS AND ENCOURAGE THEM TO WATCH FOR POSSIBLE VIOLATIONS OF OUR REGULATIONS GOVERNING IMPORTS OF PRISON LABOR PRODUCTS. OBVIOUSLY ANY SUSPICIONS SHOULD BE BROUGHT TO THE ATTENTION OF U.S. OFFICIALS.

IN ADDITION, WE WELCOME INFORMATION FROM OTHER ORGANIZATIONS WHICH MIGHT IDENTIFY VIOLATIONS. FOR EXAMPLE, THE LAOGAI RESEARCH FOUNDATION AND ITS HEAD, HARRY WU, HAVE RESEARCHED NUMEROUS CHINESE FACILITIES IN AN EFFORT TO IDENTIFY PRISON LABOR-PRODUCED EXPORTS, SOMETIMES AT GREAT PERSONAL RISK.

THE GOOD FAITH OF BOTH PARTIES, THE UNITED STATES AND CHINA, IS CRITICAL TO THE SUCCESSFUL IMPLEMENTATION OF THE MOU. WE HAVE REPEATEDLY UNDERSCORED THE IMPORTANCE WE ATTACH TO THIS ISSUE. THIS YEAR CHINA'S PROGRESS IN STEMMING EXPORTS OF PRISON LABOR-PRODUCED GOODS THROUGH IMPLEMENTATION OF THE MOU, TOGETHER WITH FREEDOM OF EMIGRATION AND OTHER HUMAN RIGHTS CONCERNs, WILL BE SCRUTINIZED IN DETERMINING OUR RECOMMENDATIONS ON MOST FAVORED NATION TRADE TREATMENT FOR CHINA.

IN THE COMING MONTHS, WE WILL CONTINUE TO EVALUATE CHINESE ACTIONS IN THIS AREA, INCLUDING POSITIVE, PROMPT, AND COMPLETE ACCESS TO SUSPECTED FORCED LABOR SITES. THIS WILL NOT BE AN "EASY TO MEET CONDITION", BUT IT IS A FAIR ONE. FOR WE ARE NOT MAKING NEW DEMANDS OF THE CHINESE. WE MERELY SEEK THEIR FAITHFUL IMPLEMENTAION OF PAST AGREEMENTS. WE FIRMLY HOPE WE WILL SEE PROGRESS. IT IS IN THE INTEREST OF BOTH COUNTRIES THAT WE DO SO.

OUR ABILITY TO IMPLEMENT THE MOU EFFECTIVELY WILL DEPEND IN LARGE PART UPON CHINESE WILLINGNESS TO COOPERATE WITH U.S. OFFICIALS. WE BEGAN TO SEE SOME IMPROVEMENT AFTER THE VISIT OF CHINESE OFFICIALS HERE, THEN IT DROPPED OFF. WE NEED TO RESTORE MOMENTUM. AT THE SAME TIME, ON OUR PART, WE OUGHT EITHER TO RESOLVE THOSE CASES WE CAN OR ASK FOR WHATEVER INFORMATION WE LACK.

MR. CHAIRMAN, IN CONCLUSION, I WISH TO ASSURE YOU THAT THE ADMINISTRATION WILL CONTINUE TO PURSUE ACTIVELY PRESIDENT CLINTON'S COMMITMENT TO IMPLEMENT THIS AGREEMENT DECISIVELY. OUR GOAL IS TO ENSURE THAT NO GOODS PRODUCED BY PRISON LABOR ENTER THIS COUNTRY IN VIOLATION OF U.S. LAW.

I WOULD BE PLEASED TO ANSWER YOUR QUESTIONS. THANK YOU.

TESTIMONY OF GEORGE J. WEISE
COMMISSIONER
UNITED STATES CUSTOMS SERVICE
BEFORE THE
HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON
INTERNATIONAL ECONOMIC POLICY AND TRADE
SEPTEMBER 9, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS THE ILLEGAL IMPORTATION OF PRODUCTS MADE BY FORCED LABOR, AND TO ADDRESS ANY QUESTIONS YOU OR YOUR COLLEAGUES MAY HAVE.

I CAN ASSURE THE SUBCOMMITTEE THAT THE CUSTOMS SERVICE IS CONCERNED ABOUT THE ILLEGAL IMPORTATION OF GOODS PRODUCED BY FORCED LABOR. WE ARE EquALLY CONCERNED WITH THE HUMAN AND CIVIL RIGHTS OF INDIVIDUALS FORCED TO PRODUCE SUCH PRODUCTS IN CHINA. THE IMPORTATION OF GOODS MANUFACTURED "WHOLLY OR IN PART" BY "CONVICTS OR PRISONERS," IS, WITH CERTAIN EXCEPTIONS, PROHIBITED UNDER 18 USC 1761. THE IMPORTATION OF GOODS PRODUCED "WHOLLY OR IN PART" BY "CONVICT LABOR/AND FORCED LABOR OR/ AND INDENTURED LABOR UNDER PENAL SANCTIONS," IS, WITH CERTAIN EXCEPTIONS, PROHIBITED UNDER 19 USC 1307.

I WOULD LIKE TO EMPHASIZE BOTH MY OWN AND CUSTOMS' STRONG COMMITMENT TO THE ENFORCEMENT OF THIS NATION'S (COMMERCIAL AND CRIMINAL) LAWS. THE ISSUE BEFORE US TODAY, THE ILLEGAL IMPORTATION OF GOODS PRODUCED BY FORCED LABOR, IS OF GREAT CONCERN TO BOTH CUSTOMS AND THIS COMMITTEE, BECAUSE THE PRACTICE CONSTITUTES NOT ONLY A VIOLATION OF U.S. LAW BUT OF THIS NATION'S CONSCIENCE AS WELL. IN FACT, THE CUSTOMS SERVICE HAS MADE THE INVESTIGATION INTO THE ILLEGAL IMPORTATION OF FORCED LABOR PRODUCED GOODS A PRIORITY UNDER OUR 1993 NATIONAL TRADE ENFORCEMENT STRATEGY.

THE CURRENT ADMINISTRATION HAS MADE ITS VIEWS CLEAR REGARDING THE NEED TO CONSIDER THE HUMAN AND CIVIL RIGHTS OF INDIVIDUALS IN CHINA AND THROUGHOUT THE WORLD WHO ARE PRESENTLY FORCED TO PRODUCE PRODUCTS AND GOODS INTENDED FOR EXPORT TO THE U.S. THERE ARE, OF COURSE, NUMEROUS OBSTACLES TO OVERCOME BEFORE WE CAN FULLY RESOLVE THIS PROBLEM, BUT AT THE UNITED STATES CUSTOMS SERVICE WE WILL CONTINUE, AND WITH THE SUPPORT AND COUNSEL OF THIS COMMITTEE, RENEW OUR EFFORTS TO IDENTIFY, DOCUMENT, AND RESOLVE CASES INVOLVING INDIVIDUALS OR COMPANIES THAT CONTINUE TO PROFIT THROUGH THE USE OF FORCED LABOR.

AS YOU ARE AWARE, THE CUSTOMS SERVICE ATTEMPTS TO ENFORCE THE LAWS AFFECTING CHINESE FORCED LABOR IMPORTS, IN PART, THROUGH A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CHINESE GOVERNMENT. THE AUGUST 7, 1992, MOU WAS NEGOTIATED AND APPROVED BY REPRESENTATIVES FROM THE UNITED STATES DEPARTMENT OF STATE AND THE PEOPLE'S REPUBLIC OF CHINA. THE MOU PROVIDES THE U.S. WITH A PROCEDURE TO REQUEST THE CHINESE CONDUCT INVESTIGATIONS OF FACILITIES, "BASED ON SPECIFIC INFORMATION" THAT A FACILITY IS "SUSPECTED OF VIOLATING RELATIVE REGULATIONS AND LAWS..." IN ORDER TO "RESOLVE SPECIFIC OUTSTANDING CASES RELATED TO THE SUBJECT MATTER" OF THE MOU, THE PARTIES AGREED TO "PROMPTLY ARRANGE AND FACILITATE VISITS...TO ITS RESPECTIVE COMPANIES, ENTERPRISES OR UNITS."

ALTHOUGH ON THE SURFACE IT MAY APPEAR THAT THE CHINESE HAVE BEEN COOPERATIVE, WE AT CUSTOMS HAVE SUBSTANTIAL CONCERN ABOUT THE ONGOING IMPLEMENTATION AND CHINESE COMPLIANCE WITH THE LETTER AND SPIRIT OF THE AGREEMENT. IN FACT, TO DATE, THE CHINESE HAVE ONLY RESPONDED TO 16 OF 31 U.S. REQUESTS FOR INVESTIGATIONS UNDER THE MOU, AND HAVE ONLY GRANTED 1 OF 5 REQUESTS TO INSPECT SUSPECT FACILITIES. THE 16 CHINESE INVESTIGATIVE REPORTS HAVE BEEN VERY BRIEF AND LACKED SUFFICIENT DETAIL FOR CUSTOMS TO RESOLVE THE ISSUE. SIMILARLY, IN THE 1 VISIT THAT WAS CONDUCTED BY U.S. REPRESENTATIVES AT A

SUSPECT FACILITY, WE WERE ALLOWED ACCESS ONLY TO PARTS OF THE COMPOUND. THE CHINESE HAVE DENIED A U.S. REQUEST TO REVISIT THAT FACILITY.

THE CHINESE HAVE, HOWEVER, ALLOWED US TO VISIT 2 FACILITIES FOR WHICH WE HAD REQUESTED INVESTIGATIONS, BUT HAD NOT REQUESTED VISITS. WHILE OUR INVESTIGATORS DID WITNESS PRISONERS MANUFACTURING CERTAIN PRODUCTS, WE FOUND NO EVIDENCE OF EXPORTS OF THE COMMODITIES BEING PRODUCED AT THESE 2 PRISONS. FINALLY, THE CHINESE HAVE INDICATED THEY ARE UNWILLING TO TAKE ACTION ON FUTURE U.S. VISITS UNDER THE MOU UNTIL THE U.S. ADVISES THE CHINESE THAT WE HAVE RESOLVED THE ISSUES CONCERNING THESE 2 FACILITIES.

MR. CHAIRMAN, THE LACK OF TIMELY AND THOROUGH CHINESE INVESTIGATIONS, AND U.S. INSPECTIONS OF SUSPECT FACILITIES CONTINUE TO BE AN OVERRIDING, CRITICAL PROBLEM AS IT PERTAINS TO CHINESE COMPLIANCE WITH THE MOU.

IN THOSE INSTANCES WHERE THE CHINESE HAVE DENIED REQUESTS FOR VISITS, THEY CONTENDED THAT OUTSTANDING ISSUES HAD BEEN RESOLVED THROUGH THEIR OWN INTERNAL INVESTIGATIONS AND REPORTS, OR BY VISITS FROM U.S. CONSULAR OFFICIALS NOT TRAINED IN THESE MATTERS; AND MADE PRIOR TO THE MOU.

THE U.S. POSITION IS A DIFFERENT ONE: WE BELIEVE THE CHINESE INVESTIGATIONS DID NOT PROVIDE THE EVIDENCE NECESSARY TO "RESOLVE SPECIFIC OUTSTANDING CASES," AND THEREFORE VISITS BY PROPERLY TRAINED U.S. REPRESENTATIVES WERE INDEED REQUIRED. THE CHINESE RESPONSE TO THIS ARGUMENT APPEARS TO BE THAT OUR INITIAL REQUESTS FOR INVESTIGATION DID NOT MEET THE MOU'S INFORMATIONAL THRESHOLD, (I.E., NOT SUFFICIENTLY SPECIFIC) AND THAT THEIR DENIALS FOR VISITS ARE THEREFORE NOT AT ISSUE.

FURTHER COMPLICATING ENFORCEMENT MATTERS, CHINESE OFFICIALS ASSERT THAT THEIR LAWS PROHIBIT THE EXPORTATION OF PRISON MADE GOODS TO THE UNITED STATES, AND THAT THEREFORE NO CHINESE EXPORT DOCUMENTS EXIST FOR SUCH TRANSACTIONS. OFTEN, WHEN IMPORTS DO REACH THE UNITES STATES FROM CHINA THE ACCOMPANYING INVOICES REFLECT A TRADING COMPANY AS THE SHIPPER, WITH NO INDICATION AS TO THE ACTUAL MANUFACTURER OF THE COMMODITY. ALSO, THE GOODS ARE NOT MARKED IN A MANNER THAT INDICATES FORCED LABOR WAS USED IN THEIR MANUFACTURE, AS IS REQUIRED BY 18 USC 1762 (MARKING OF GOODS MADE BY "CONVICTS" OR "PRISONERS".)

THE CHINESE ALSO CONTEND THAT THEIR "TWO-TRACK" SYSTEM - WHERE RELATIVES OF PRISON OFFICIALS HAVE BEEN ALLOWED TO OPERATE AND WORK IN FACTORIES ON PRISON GROUNDS - EXPLAINS WHY

EXPORTED GOODS ARE COMING FROM PRISONS. AGAIN, THE U.S. HAS BEEN UNABLE TO VERIFY THIS SO-CALLED SYSTEM BECAUSE OF THE LACK OF ACCESS TO PRISON FACILITIES.

MR. CHAIRMAN, WE REGRETTABLY FIND OURSELVES AT AN IMPASSE WITH THE CHINESE. WE WILL CONTINUE TO INSIST THAT THE CHINESE HONOR OUR REQUESTS FOR 4 VISITS, AND 1 REVISIT OF SUSPECT FORCED LABOR FACILITIES, AND THAT THEY CONDUCT THE 15 OUTSTANDING INVESTIGATIONS WE HAVE REQUESTED. UNTIL THE CHINESE HONOR THESE REQUESTS, AND DEMONSTRATE A WILLINGNESS TO FULLY COOPERATE WITH THE LETTER AND SPIRIT OF THE MOU, I SEE NO REASON TO CONSIDER LIFTING ANY EXISTING DETENTION ORDERS OR FINDINGS.

THE SECRETARY OF STATE IS CHARGED WITH MAKING A RECOMMENDATION TO THE PRESIDENT NEXT YEAR AS IT RELATES TO CHINESE COMPLIANCE WITH VARIOUS CONDITIONS SET FORTH IN THE MAY 28, 1993, EXECUTIVE ORDER RENEWING MFN FOR THE PRC. AMONG THOSE CONDITIONS IS CHINA'S COMPLIANCE WITH THE MOU. I WILL CONTINUE TO MONITOR CHINA'S RESPONSE TO U.S. REQUESTS UNDER THE MOU, INCLUDING THE TIMELINESS AND COMPLETENESS OF CHINESE INVESTIGATIONS, U.S. ACCESS TO CHINESE SUSPECT FACILITIES AND RECORDS, CUSTOMS SEIZURES OF VIOLATIVE GOODS, THE NUMBER OF COMPLAINTS AND INTELLIGENCE THAT CHINESE FORCED LABOR PRODUCED GOODS ARE BEING EXPORTED TO THE U.S., AND THE RESULTS

OF CUSTOMS CIVIL AND CRIMINAL INVESTIGATIONS.

I WILL MAKE THIS INFORMATION AVAILABLE TO THE SECRETARY OF STATE TO ASSIST IN THE FORMULATION OF HIS RECOMMENDATION TO THE PRESIDENT. MEANWHILE, I WILL CONTINUE TO WORK WITH THE CHINESE IN AN ATTEMPT TO GAIN GREATER COMPLIANCE WITH THE LETTER AND SPIRIT OF THE MOU. LATER THIS MONTH WE ARE SENDING A REPRESENTATIVE TO CHINA IN CONJUNCTION WITH THE OPENING OF A CUSTOMS OFFICE IN BEIJING. OUR REPRESENTATIVE WILL BE MEETING WITH THE CHINESE TO DISCUSS A NUMBER OF ISSUES RELATIVE TO CUSTOMS OPERATIONS IN CHINA, INCLUDING OUR CONCERNs RELATIVE TO THE MOU. THE OFFICE WILL BE STAFFED BY AN ATTACHE, AND AN ASSISTANT ATTACHE. FURTHERMORE, I ALSO INTEND TO VISIT CHINA WITHIN THE NEXT YEAR, AND TO DISCUSS OUR PROGRESS UNDER THE MOU WITH THE CHINESE.

I BELIEVE IT IS IMPORTANT TO MAKE A CLEAR PUBLIC RECORD ON THIS ISSUE. CLEARLY THE CHINESE COULD CONDUCT THE REQUESTED INVESTIGATIONS IN A MORE TIMELY AND THOROUGH MANNER, AS WELL AS ARRANGE FOR VISITS TO SUSPECT FACILITIES MORE PROMPTLY. PROGRESS IS SLOW AND ADMINISTERING THE MOU HAS BEEN FRUSTRATING. WHILE OUR GOVERNMENTS MAY HAVE HAD DIFFERENCES IN INTERPRETATION OF THE MOU, CLEARLY THE CHINESE CAN AND MUST, DEMONSTRATE A GREATER COMMITMENT TO ITS SUCCESS.

ON DECEMBER 5, 1991, THEN COMMISSIONER OF CUSTOMS CAROL HALLET TESTIFIED BEFORE THIS SUBCOMMITTEE ON CHINESE PRISON LABOR IMPORTS. I WOULD LIKE TO REVIEW FOR YOU WHAT THE CUSTOMS SERVICE HAS ACCOMPLISHED SINCE THAT TIME, AND PROVIDE YOU WITH THE DIRECTION IN WHICH I INTEND TO TAKE THE CUSTOMS SERVICE ON THIS VERY IMPORTANT ISSUE.

TO ENFORCE THE STATUTORY PROHIBITION OF FORCED LABOR IMPORTS THE CUSTOMS COMMISSIONER FIRST ISSUES DETENTION ORDERS WHEN INFORMATION REASONABLY, BUT NOT CONCLUSIVELY, INDICATES THAT MERCHANDISE WITHIN THE PURVIEW OF 19 USC 1307 IS BEING, OR IS LIKELY TO BE, IMPORTED (19 CFR 12.42(e)).

IF THE COMMISSIONER SUBSEQUENTLY RECEIVES ADDITIONAL INFORMATION, SUFFICIENT TO MAKE A "DETERMINATION" THAT THE GOODS IN QUESTION ARE INDEED COVERED BY THE PROVISIONS OF 19 USC 1307, THEN THE COMMISSIONER, WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY, WILL PUBLISH A FINDING TO THAT EFFECT IN A WEEKLY ISSUE OF THE CUSTOMS BULLETIN, AND IN THE FEDERAL REGISTER (19 CFR 12.42(f)).

THE CUSTOMS SERVICE HAS WORKED DILIGENTLY TO OBTAIN THE INFORMATION NECESSARY TO SUPPORT THE ISSUANCE OF 'DETENTION ORDERS' AND "FINDINGS" RELATIVE TO COMMODITIES SUSPECTED OF

BEING PRODUCED BY CONVICT OR FORCED LABOR.

AS OF AUGUST 16, 1993, THE CUSTOMS SERVICE HAS ISSUED 22 DETENTION ORDERS FOR 22 DIFFERENT COMMODITIES, FROM 20 SUSPECTED FORCED LABOR FACILITIES IN CHINA. FIVE "FINDINGS" HAVE BEEN ISSUED ON COMMODITIES THAT WERE INITIALLY THE SUBJECT OF DETENTION ORDERS. THE COMMODITIES FOR WHICH "FINDINGS" HAVE BEEN ISSUED ARE DIESEL ENGINES, SOCKS, TEA, MACHINE PRESSES, AND SHEEPSKIN AND LEATHER.

ON THE DOMESTIC SIDE OF THE AGENDA, ON APRIL 23, 1992, THE E.W. BLISS COMPANY OF HASTINGS, MICHIGAN, PLED GUILTY TO VIOLATING TWO COUNTS OF 18 USC 1761 (A), IMPORTATION OF PRISON MADE GOODS. THE E.W. BLISS COMPANY WAS FINED \$75,000 AND ORDERED TO EXPORT 31 STAMPING MACHINES WHICH HAD BEEN SEIZED BY OUR DETROIT ENFORCEMENT OFFICE.

ALSO, IN OCTOBER OF 1992, THE PENALTIES FOR VIOLATING 18 USC 1761 (TRANSPORTATION OR IMPORTATION OF PRISON-MADE GOODS) WERE INCREASED TO TWO YEARS IN PRISON AND/OR A \$50,000 FINE (FROM ONE YEAR AND \$1,000), AND THE PENALTY FOR VIOLATING 18 USC 1762 (MARKING PACKAGES FOR PRODUCTS MADE WITH PRISON LABOR) WERE INCREASED TO A \$50,000 FINE (FROM \$1,000).

ADDITIONALLY, IN MARCH OF 1993, CUSTOMS DENIED A PROTEST FILED BY CHINA DIESEL IMPORTS, JAMUL, CALIFORNIA, RELATIVE TO THE CUSTOMS DETENTION OF 50 JINMA BRAND DIESEL ENGINES, BELIEVED TO HAVE BEEN PRODUCED BY FORCED LABOR. THIS CASE IS PRESENTLY BEFORE THE COURT OF INTERNATIONAL TRADE.

I WISH TO POINT OUT THAT FOR THE THREE YEARS THE FORCED LABOR PROGRAM HAS BEEN IN EFFECT, WE HAVE SPECIFICALLY IDENTIFIED A MINIMAL NUMBER OF ILLEGAL EXPORTS TO THE UNITED STATES. WE DO, HOWEVER, RECEIVE INFORMATION THAT SUCH EXPORTERS ARE OCCURRING. INDEED, BOTH HARRY WU, AND THE HUMAN RIGHTS ORGANIZATION ASIA WATCH HAVE BEEN VERY HELPFUL IN IDENTIFYING SUSPECT FORCED LABOR FACILITIES. HOWEVER, CUSTOMS ABILITY TO ACT ON ALLEGATIONS CONCERNING FORCED LABOR IS SEVERELY HAMPERED BY LIMITED ACCESS TO CHINESE REFERENCE MATERIALS AND PUBLICATIONS ON FORCED LABOR ACTIVITIES, VAGUE COMMODITY DESCRIPTIONS I.E. "PRINTED MATTER," DIFFICULTIES IN TRANSLATION OF SOURCE DOCUMENTS, AND THE CHINESE PROPENSITY TO UTILIZE SEVERAL DIFFERENT NAMES FOR THE SAME FACILITY.

WHILE THE CUSTOMS SERVICE IS SENSITIVE TO THE CONCERNS OF THE LEGITIMATE IMPORTING COMMUNITY ON THIS ISSUE, IMPORTERS HAVE A RESPONSIBILITY TO SCRUTINIZE THEIR IMPORT TRANSACTIONS AND REFUSE TO PURCHASE GOODS PRODUCED BY FORCED LABOR. IN FACT,

LEVI STRAUSS & CO. HAS ANNOUNCED ITS DECISION TO PHASE OUT ITS CHINESE OPERATIONS BECAUSE OF WHAT IT DESCRIBED AS "PERVASIVE VIOLATIONS" OF HUMAN RIGHTS IN CHINA.

IN CONCLUSION , LET ME REAFFIRM THE CUSTOMS SERVICE'S COMMITMENT TO SUCCESSFUL IMPLEMENTATION OF THE FORCED LABOR MOU. I HOPE THAT RECENT ACTIONS BY THIS ADMINISTRATION WILL SERVE TO PROMOTE COOPERATION FROM THE CHINESE ON THIS ISSUE. I HOPE THAT CUSTOMS MAY AT SOME TIME IN THE FUTURE HAVE A REASON TO REASSESS THE CURRENT STANDING DETENTION ORDERS AND FINDINGS. ON A BROADER SCALE CUSTOMS HAS BEEN VERY ACTIVE IN ITS EFFORTS HALT THE ILLEGAL IMPORTATION OF MERCHANDISE MANUFACTURED BY FORCED LABOR, IN ANY COUNTRY. BE ASSURED, THE CUSTOMS SERVICE WILL CONTINUE ITS EFFORTS, AND WE WILL NOT BE SATISFIED UNTIL THE EVIDENCE REFLECTS THAT THIS PRACTICE HAS BEEN ELIMINATED.

THIS CONCLUDES MY PREPARED REMARKS. I WOULD BE DELIGHTED TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.



Prison Labor and U.S. Policy Towards China
Testimony of Mike Jendrzejczyk, Washington Director
of Asia Watch
Before the House Foreign Affairs Committee
September 9, 1993

My name is Mike Jendrzejczyk, and I am the Washington Director of Asia Watch, a division of Human Rights Watch, a nongovernmental human rights monitoring organization.

We are pleased and honored to be asked to testify today before three of the distinguished subcommittees of the House Foreign Affairs Committee on the subject of prison labor in China. I would like to acknowledge, in particular, the strong leadership of Rep. Sam Gejdenson on this issue. Your subcommittee, Mr. Chairman, has been especially vigilant in exposing this particularly onerous human rights abuse and pressing for action by the Chinese government and the Executive branch.

As you know, Mr. Chairman, in April 1991 Asia Watch first published official Chinese government documents which boasted about the use of prisoners, including political prisoners, to produce goods for export. In a series of reports published by Asia Watch since then, we have discredited Beijing's insistence that prison-made products are not for

export, and documented the appalling conditions in the vast Chinese gulag.¹

New evidence of China's continuing policy of using prisoners to produce goods for export emerged earlier this year when a former political prisoner, Xu Yiruo, who was released from prison this past February, gave an interview in the *New York Times*.² Last week, Mr. Xu provided our office in Hong Kong with a detailed description of his experiences; his statement is attached to my testimony for inclusion in the record of this hearing. (Mr. Xu is currently in Hong Kong seeking resettlement in the U.S. as a political refugee, where he was recently interviewed by a U.S. Customs official.)

Mr. Xu was first arrested and briefly detained in June 1989 because of his pro-democracy activities. He was arrested again in June 1991 after he hung wall posters on the campus of Qingdao University, commemorating the anniversary of the 1989 crackdown. In October 1991, he was sentenced, without trial, to two years of forced labor at the Qingdao Provincial No. 1 Labor Re-education Center.

While detained at the Qingdao No. 1 Municipal Jail, between July and October 1991, in a filthy crowded cell with 10 other prisoners, he was forced to work an average of 17-18 hours daily assembling electric Christmas tree lights for export. According to Mr. Xu, "Production and marking was the number one concern of the prison authorities...[t]he work was so unremitting that before long, the skin on my fingers became raw and bleeding, and,

¹ See, for example, "China: Political Prisoners Abused in Liaoning Province as Official Whitewash of Labor Reform System Continues," *News from Asia Watch*, September 1, 1992; *Anthems of Defeat: Crackdown in Hunan Province*, 1992, and "Democracy Wall Prisoners," *News from Asia Watch*, March 28, 1993.

² "Chinese Dissident's Odyssey" and "Export of Prison Goods Seems to Continue," by Nicholas D. Kristof, *NY Times*, July 19, 1993.

like all the other inmates, I had to bind my fingers with small pieces of cloth in order to be able to continue working. On numerous occasions, the jail governor and other officials informed us that the goods we were making were for export, and they stressed that this was a 'glorious production task' which generated foreign currency for the state." The ultimate foreign destinations of the assembly lights were never revealed to the prisoners.

In October 1991, Mr. Xu was transferred to a huge forced labor facility, the Shandong No. 1 Labor Re-education Center, also known as the "August 3rd Factory," in Shandong Province, where prisoners manufactured graphite electrodes and other goods. Some of them were forced to do exhausting work, deep underground, mining a rare type of flint clay (jiaobaoshi, or SS No. 5 clay) for export to Japan, the U.S. and other markets. Medical care was rudimentary and industrial accidents in the mine were common; prisoners were beaten for failing to meet production quotas or for insubordination. Those who "resisted reform" by maintaining their innocence were beaten and treated especially harshly. Those trying to escape these brutal conditions had their sentences automatically increased by two years. The Ministry of Justice was so proud of the operations at the August 3rd Factory it designated the facility as a national model for other labor re-education units around the country.

Mr. Xu worked in the mine until February 16, 1993 when he was released, five months before completion of his sentence. He left behind -- still laboring in the mine today - other political prisoners such as Shan Zhenheng, a Beijing student first imprisoned for nearly two years after June 1989 due to his pro-democracy activities. Shan was resentenced in 1991 and was transferred to the August 3rd factory; the conditions were so appalling, he

attempted suicide by slashing his wrists shortly after his arrival. Mr. Xu also knew of eight Christians, active in an underground Protestant "house church" broken up by the police, who were arrested and sentenced to three years imprisonment. They were sent to work in the mine in September 1992, and to the best of our knowledge, are still detained there.

Following the publication of Mr. Xu's account, we provided the U.S. Customs Service with copies of Chinese government documents (attached to this statement) describing: (Document 1, dated 1991) the production activities of labor re-education camps in Shandong Province and confirming that prisoners are used to make Christmas tree lights and jiaobaoshi clay; (Document 2, dated Feb. 1991) discussing the re-education camp where the clay is mined and processed and its designation as a national model; and (Document 3, dated 1989) citing export products from the Shandong No. 1 Labor Re-education Center and additional details on forced labor production throughout Shandong Province.

These documents not only confirm the information contained in Mr. Xu's statement, but they also make it clear that China's policy on prison labor remains essentially unchanged. Forced labor continues, political and religious prisoners and others are used to produce goods for export, and human rights abuses in the Chinese gulag are rampant and unchecked by Chinese authorities. Yet the Chinese government issues repeated public denials, obviously hoping that they can trick and fool their way past U.S. government inspectors while the state continues to rake in a profit.³

³ For example, a foreign ministry spokesman, quoted by *Agence-France Presse* on May 19, 1993, insisted that, "The Chinese side has made careful inspections and found no case of exporting prison labor products to the U.S...China has all along strictly observed the MOU" on prison labor.

U.S. Policy

When the Memorandum of Understanding (MOU) on prison labor between the U.S. and China was signed on August 7, 1992, Asia Watch noted that it was a positive step but expressed concern about the extremely vague language about inspections; without inspections, monitoring compliance with the agreement is virtually impossible. We also were concerned that without the economic pressure of conditions on Most Favored Nation trading status dealing specifically with prison labor, China would lack the necessary incentive to comply with the MOU.

We were pleased by President Clinton's decision this past May to highlight the prison labor issue by making compliance with the MOU an absolute condition for renewal of MFN in June 1994. But, unfortunately, Mr. Chairman, neither the MOU nor the President's Executive Order of May 28, 1993 have brought substantial improvement in the U.S. government's ability to stop prison labor exports. Much more needs to be done (as we recommend below). While the Chinese government claims it is fully cooperating with the U.S. State Department and Customs Service, it has been reluctant to comply with U.S. requests for information and/or inspections. As we have stated in previous testimony to this Committee, if the MOU is inadequate to provide access to all the places where prisoners are suspected of making products for export, then it should be re-negotiated.⁴ Or, targeted trade sanctions under Section 301 of the Trade Act or the Smoot-Hawley Act should be imposed.

The President's report to Congress accompanying his Executive Order said that 16 cases of prison exports had been presented to the Chinese government, and that Chinese

⁴ See Testimony of Robin Munro, Asia Watch, May 20, 1993.

authorities had responded to all of them. However, we understand that Chinese responses were minimal and in most cases, no documentation was provided. Clearly, this is totally inadequate.

Fourteen additional cases were presented to the Chinese in June 1993, after the Executive Order was issued. Among them are two cases described in an Asia Watch report on repression in Hunan Province (Anthem of Defeat, May 1992): the Hunan Switchgear Factory and the Hunan Silk Factory, both of which are actually labor re-education centers. This past April we provided the Customs Service with additional documentation on these two facilities. Under the terms of the MOU, the Chinese have apparently been asked to undertake their own "investigations" of these prison factories. Whatever information the Chinese government may present in response, we believe it would be a huge mistake to accept their claims at face value, and that the U.S. should immediately press for access to both facilities.

On the crucial question of inspections, the Chinese government has also been less than forthcoming, apparently trying to get away with the most minimal, technical compliance with the MOU and hoping the Administration will be so intent on renewing MFN next year that it will find a way to let China slip through. Only a few inspections have been allowed, and in some cases, with restrictions imposed. At the time of the Executive Order in May, five requests for visits by Customs officials were pending, along with a request to revisit the Gold Horse Diesel Engine Factory (or Yunnan No. 1 Prison) since U.S. diplomats were able to see only part of the prison last fall. However, we understand that the reinspection request, along with the other four requests for Customs inspections, were rejected by the Chinese

authorities because the cases had been "resolved" through their own investigations.

Mr. Xu's testimony offers vivid evidence of how the Chinese government manipulates foreigners' access to their prison production facilities. He said that on at least two occasions, it was announced on the closed-circuit TV network at the August 3rd Factory that Japanese businessmen had visited the factory to negotiate export deals. And in November 1991, a delegation of Austrian police officers was given a guided tour. "All the prisoners were evacuated well in advance, however, and the foreign delegation members were shown only the newly spruced-up dormitory building and the surrounding area. They were not taken to see the clay mine or any of the production facilities, and of course they were allowed nowhere near the punishment block or the solitary confinement cells."

In September 1992, Asia Watch published an extensive report on the use of prisoners in the production of goods for export at the Lingyuan penal complex in Liaoning Province, where several known dissidents -- such as Liu Gang, who smuggled out a grim account of his torture -- are being held. A sales catalogue, excerpted in an appendix to the report, listed foreign markets for products made in Liaoning that are exported by the Yinin Enterprises Incorporation; in at least two cases, involving rubber products (the Shenyang Xinsheng Rubber Plant and Shenyang Xinsheng Reclaimed Rubber Factory), the U.S. is clearly named as one of the markets. But to our knowledge, the U.S. has yet to even make a request to visit these or other facilities in the huge Lingyuan penal complex.⁵

We believe the Administration should make a concerted effort to increase the pressure on the Chinese government to stop prison labor exports to the U.S. and to cease the human

⁵ News From Asia Watch, published September 1, 1992.

rights abuses associated with this practice. We recommend the following steps, to be undertaken with support from Congress and the U.S. business community:

1) When Assistant Secretary of State for Human Rights and Humanitarian Affairs

John Shattuck visits China in the coming weeks to discuss the MFN Executive Order, he should present a new list of facilities for inspection -- including, but not limited to those in Hunan, Shandong, and Liaoning where documented evidence of export activity exists. If the Chinese do not immediately agree to visits without restrictions or delay, the U.S. should ban from import to this country categories of goods suspected of being prison-made.

2) The U.S. should also insist on obtaining access to the facilities it had previously asked to inspect. Access by State Department officials cannot take the place of inspections by trained Customs Service agents. If unrestricted visits are not agreed to, the same penalty should be applied. i.e. banning entire categories of goods suspected of being prison-made.

3) If, by the time the Administration presents to Congress its six-months progress report on Chinese compliance with the MFN Executive Order, there has not been a substantial improvement in China's cooperation on prison labor, the Administration should raise the tariffs on a limited, targeted number of products and not wait until next June to apply economic sanctions, or consider revoking MFN, as the Executive Order requires. This would signal U.S. determination to make the MFN conditions stick. (We would note, Mr. Chairman, the Administration's willingness to impose or threaten economic sanctions on China due to its proliferation practices and even, according to yesterday's *Washington Post*, when it comes to protecting endangered species such as rhinos and tigers. What about protecting political prisoners? The Bush Administration achieved success on commercial

agreements with China only through the threat of economic sanctions.)

4) This Committee might urge the Administration to post additional Customs officials in China to monitor compliance with the MOU. One Customs Service official posted in the embassy in Beijing cannot possibly be expected to monitor compliance effectively. The Chinese government must have its own doubts about the seriousness of U.S. intent in light of such a token effort.

5) The Administration should consider requiring all U.S. importers of products from China to certify that their goods were not, in whole or in part, made with prison labor and require that they stipulate all of the sources of production or manufacture in China (including subcontractors). This would function somewhat as a deterrent, and might provide the Customs Service with information that would be highly useful for their investigations.

6) The Administration, with support from this Committee and U.S. businesses, should actively support legislation outlining a "code of conduct" for U.S. companies operating in China, such as the bill introduced in the House last year by former Rep. John Miller and passed by the Senate in October 1992 (contained in the Export Administration Act, Conference Report.) Such a code should include a strict provision on prison labor exports, as well as other steps that U.S. businesses could take to promote human rights in China.

APPENDIX I

**Statement by Xu Yiruo
for the House Foreign Affairs Committee
September 3, 1993**

Background

My name is Xu Yiruo. I was born in Beijing on August 5, 1969 and attended primary and middle schools in Hefei, Anhui Province. When I was 18 years old, my family moved to Qingdao City, Shandong Province in eastern China, and in 1988, I entered the freshman year at Qingdao University, department of Chinese language. My parents teach electrical engineering at Qingdao University. Like them, I am a practicing Catholic.

In April 1989, I became actively involved in the student prodemocracy movement, serving as deputy chairman of the *Qingdao University Students Autonomous Federation* (*QUSAF*.) In mid-May, I went to Beijing to show my support for the student hunger-strikers in Tiananmen Square, and while there I joined the Beijing-based *Autonomous Federation of Students from Outside Beijing*. On the night of June 3-4, I was present on western Chang'an Boulevard and witnessed the military crackdown on the democracy movement. On June 16, I returned to Qingdao City, and four days later I was arrested on account of my prodemocracy activities and thrown into Qingdao No.2 Municipal Jail. After seven weeks, I was released on probation and allowed to return home and resume my studies. I remained under suspicion, however, and each month thereafter, I was summoned to the local police station and questioned about my latest activities.

In March 1991, Yang Hai, the former chairman of *QUSAF*, was suddenly arrested in Qingdao. Fearing arrest also, I decided to flee China and stowed aboard a cargo ship bound for

Hong Kong. Upon arrival on April 9, I was detained by Hong Kong police and held for the next 15 days. Despite my plea to be granted political asylum, I was then forcibly returned to China by the Hong Kong authorities. Upon re-entering China, I was seized by border police and held in a series of detention centers in Guangdong Province over the next month. On approximately May 20, 1991, I escaped from Zengcheng County Detention Center while out working in the fields, and then returned secretly to Qingdao.

On the evening of June 3, 1991 I wrote two small wall posters commemorating the second anniversary of the June 1989 crackdown - one was a poem, the other an essay - and pasted them up anonymously on the campus of Qingdao University. Four days later, the police came to my home, compared the handwriting on the wall posters with that of my diary and other personal documents and then took me away for prolonged questioning. A few days later, fearing further arrest, I fled to Beijing, where I made international telephone calls to Asia Watch and Amnesty International appealing for help. Directly after the latter call, however, I was seized by police while leaving the phone booth, and was then sent back under police guard for detention and interrogation at the Qingdao No.1 Municipal Jail. I tried unsuccessfully to escape en route to Qingdao, but was caught again by the police and beaten and shocked with electric batons. In October 1991, after several months in jail, I was sentenced without trial by the local police authorities to undergo two years of forced labor at the Qingdao Provincial No.1 Labor Re-education Center.

On February 16, 1993, I was released five months ahead of schedule, but only to find that I had been expelled from college and would not be allowed to graduate. I applied for numerous jobs, but was always rejected because of my record of political imprisonment. I then

applied for a special permit to go to the Shenzhen Special Economic Zone in order to find work in the commercial sector, but the police refused to grant me this, again because of my record.

In early July of this year, urgently wishing to publicize my experience of repression by the government, I travelled to Beijing and made contact with the Beijing bureau chief of the *New York Times*. The story of my imprisonment, together with details of the forced-labor enterprises in which I was made to work producing goods for export, appeared in the *New York Times* on July 19. On July 27, I again escaped from China and I have now applied to be resettled as a political refugee in the United States.

Prison Conditions and Production Activities

1) **Qingdao Jail.** Between July and October 1991, I was detained at the Qingdao No.1 Municipal Jail where I was held together with 10 other prisoners in a cell of approximately 10 square meters in size.¹ There was a steel door at one end, with a gap underneath through which our food was handed in; an unscreened toilet and water tap next to it; a one-square-meter window, barred with steel rods, at the other end of the room; and a wooden floor, on which we had to sleep at night using cotton quilts supplied by our families.

Sanitation and hygiene in the cells was extremely deficient. Throughout my three months or more in the jail, none of the inmates was ever allowed a proper shower. Instead, we had to make do with just washing our hands and faces at the stand pipe. Mosquitos and fleas were a major problem, and since space was so limited that we had to sleep packed together side by side,

¹ Qingdao No.1 Jail is located at No.25 Changzhou Road, South District, Qingdao City. Since I was technically being held under "shelter and investigation" (shourong shencha) regulations, I should have been sent to a special "shelter and investigation center," rather than to a jail (kanshou suo), which is supposed to be used only for those awaiting trial under the criminal law and for those sentenced to death and awaiting execution.

it was impossible to get a proper night's sleep. Because of the severe overcrowding and the extreme heat in summer, moreover, skin diseases (particularly inflammations of the genital area) were rife.

Everyday, Sundays included, all prisoners were made to work for on average of 17 to 18 hours assembling electric Christmas tree lights. All work was performed on the cell floor and we were allowed out of the cell for only 15 minutes each day for a short period of fresh air. On the upper floor of the jail (I was held on the ground floor) were held even more serious offenders, many of them scheduled for execution, and they were usually kept shackled and handcuffed. Sometimes during the "exercise" period, I would see them being carried out of the cells, often in a most pitiful state, and laid out on the balcony for some fresh air and sunlight.

Among the prisoners in my cell were several people charged with committing rape, and one who had been convicted of murder and was awaiting execution. He was kept in leg irons and handcuffs throughout my time at the jail, and the restraints were never removed, not even at night. Nonetheless, he was also made to assemble Christmas tree lights, just like the rest of us, although the handcuffs meant that he had to work much more slowly. There was also one overseas Chinese who had been charged with espionage offenses.

Cell discipline, as elsewhere in the jail, was maintained by a "cell boss" - a prisoner who had gained favor with the guards and was entrusted with the job of reporting on the other inmates and forcing them to work harder. For this, the cell boss was given larger food rations and was exempted from most manual labor tasks. Medical attention was available only for the most conspicuous illnesses or injuries, such as when on one occasion a 17-year old prisoner in my cell had his arm gashed open during a beating by the cell boss, and a medical orderly came

in and bandaged the wound. Otherwise, prisoners had to suffer in silence.

The daily regimen at Qingdao No.1 Jail was as follows:

* Reveille was at 5.00 AM, with ten minutes allowed to wash from the stand pipe and clear away the bedding.

* 5.30: Cell door was opened by guards and the day's supply of electrical parts for assembly was handed in. Work began immediately.

* 6.30: Breakfast - one bowl of millet gruel and one corn bun per prisoner - was handed into the cell. We were allowed ten minutes at most to eat, then resumed working. Anyone seen as slacking on the job was usually given a beating by the cell boss.

* 11.30: Lunch was handed into the cell - one bowl of millet gruel and a couple of boiled aubergines each. Allowed ten minutes to eat, then back to work again.

* 2.30: Prisoners were let out of the cell for 15 minutes' fresh air in a small outside yard. But the whole period was always spent sitting on the ground, prisoners grouped in a tight circle and continuing to assemble Christmas lights. No physical exercise or other activities were permitted. Then back to the cell again.

* 6.00 PM: Ten-minute break for dinner, consisting of corn bun, aubergines and occasionally some cucumber. Then resumed working until 11.00 or 12.00 at night. When deadlines for large orders approached, we had to work even longer hours, and on one occasion in mid-September 1991, we were made to work continuously for three days and nights.

My first impression of Qingdao No.1 Jail, upon being led down the corridor to my cell after arrival there, was one of surprise at seeing piles of small electric light bulbs, electric cables, all kinds of other production components and boxes of finished assembled goods lying

heaped in every available corner of the jail, including in all the corridors, waiting to be shipped out to customers. I soon learned, moreover, that production and marketing was the number one concern of the prison authorities. I was told that prisoners were also sometimes made to engage in such tasks as textile preparation and cotton thread processing, but during my time at the jail our whole working day was taken up with assembling Christmas tree lights for export. The work was so unremitting that before long, the skin on my fingers became raw and bleeding, and, like all the other inmates, I had to bind my fingers with small pieces of cloth in order to be able to continue working.

On numerous occasions, the jail governor and other officials informed us that the goods we were making were for export, and they stressed that this was a "glorious production task" which generated foreign currency for the state. Our success in reforming ourselves, they said, would be gauged by the extent to which we maintained high levels of product quality and output. The Christmas tree light components, moreover, were all sent in from abroad. Most of the small, multi-colored electric light bulbs came in plastic packages bearing the English words "U.K. Chemical Co. Ltd." (others bore the label of a Hong Kong company, the name of which I've forgotten); the white plastic shades that we had to attach to the bulbs came in packages labelled (in Chinese characters) "Taiwan Ri-Mei² Electrical Co. Ltd"; and other components still were labelled in Korean writing, which I could not understand. The prison officials never revealed to us the names of the countries to which the finished Christmas tree lights were being exported..

² The characters "Ri-Mei" are ambiguous and could have various different meanings, namely "Sun Beautiful," "Japan Beautiful," "Sun American" or even "Japan-U.S." The correct translation in this particular case is not known.

2) Shandong Provincial No.1 Labor Re-education Center. Known to the outside world as "Shandong Province Shengjian August 3rd Factory," the Provincial No.1 Labor Re-education Center is located in the hilly outskirts of Wang Village, Zhoucun District, which lies in the northwest corner of Shandong's Zibo Municipality. The "August 3rd Factory" is a vast forced labor facility consisting of five different production plants or so-called Sub-Schools (SS).³ SS No.1 is a carbon factory, where the prisoners produce graphite electrodes; SS No.4 is a refractory/heat-resistant materials (*naihuo cailiao*) production plant; SS No.5 is a hard grog clay (*yingzhi niantu*) mining facility; SS No.6 is a women prisoner's re-education center (main production activity: garment assembly); and SS No.7 is a sulphur-bauxite plant. (SS Nos.2 and 3 were apparently disbanded some years ago but are thought to have been subsequently converted into young offenders' institutes.)

For prison administrative purposes, each SS is known internally as "No.1 Brigade," "No.2 Brigade" (*yi, er dadui*) etc., and each brigade is subdivided into several different "squadrons" (*zhongdui*). The average size of a brigade is between 500 and 1,000 inmates, and each squadron holds around 120 inmates.

The August 3rd Factory also maintains two "scientific research centers - one of which, as one of the guards once told me, has attracted joint-venture style investment from an American company (the guard mentioned that his son worked there and earned a much bigger salary than he did.) The main product of these research centers is high-grade electronic semiconductors. But since the research centers are located about a mile away from the factory, near the labor re-

³ From 1986 onwards, the central government ordered that all labor re-education centers were to be renamed "special schools" (*feshu xuetiao*.)

education administrative offices, I know nothing else about their activities.

When I was first transferred to the August 3rd Factory in October 1991, I was placed in SS No.1, the carbon plant. But a few days later I was moved to the first squadron of SS No.5, which is regarded as a softer option than most of the others, and I remained there until my release in February 1993. I was housed in a cell with 15 other prisoners; it was much more spacious than the cell at Qingdao Jail and we slept in bunk beds. However, the manual labor, consisting of mining work deep underground, was even more intensive and exhausting than that at the jail. The daily routine was as follows:

* 6.00 AM: Reveille, wash at stand pipe and tidy up the cell. Breakfast of millet gruel and steamed wheat bun.

* 7.30: Two hours of classes: one on mining production technology and mine safety measures, and the other a political indoctrination session at which we would usually study the latest Communist Party directive or Party leader's speech. (Topics also included "how to oppose peaceful evolution," and when the government's "White Paper on Human Rights" was published we had to study that too.)

* 9.30: Lunch of cabbage and turnips. Each person issued several steamed wheat buns, to be taken down into the mine.

* 10.00: Enter the mine with the prisoners' workteam, then walk for around half an hour underground, down long low tunnels to a depth of around 300 meters, until we reached the mineface. Then begin hewing the hard clay from the mineface using pickaxes.

* Several hours later: whenever a break occurred in the flow of rail cars which continuously carried away the mined clay, we would grab a few moments to eat the steamed

buns issued to us after morning classes. Resume mining work right away. No further breaks.

* 11.00 PM or 12.00 midnight: finish work and take a quick shower at a stand pipe inside the mine. Guards conduct a name check to ensure no one has escaped, then return above-ground to the prisoners' dormitory area. Quick meal of turnips, cabbage and steamed buns, then lights out and fall quickly asleep.

The only medical service available at SS No.5 was a small clinic staffed by several former intellectuals who had been imprisoned as "rightists" in 1957 and then retained at the mine ever since. They provided rudimentary care such as administering injections or dispensing antibiotics when needed. There was however, a hospital attached to the August 3rd Factory's administrative headquarters, and serious cases were generally sent there. Many industrial accidents occurred at the mine while I was there, including one man who was crushed to death in a mining tunnel collapse. Another man was left permanently disabled after his urinary tract was severed in a collision with a mine rail car. Several others lost feet or fingers in industrial accidents in the mine. Of these, the only one temporarily allowed out of the re-education center "on bail for medical treatment" was the man who suffered the urinary tract injury. All the others had to remain in the center until completion of their sentences.

In April 1990, the Ministry of Justice designated the August 3rd Factory as a national model and exhorted labor re-education units throughout the country to "learn from the August 3rd spirit." One aspect of the "model" was meant to be the principle of "civilized wardering," meaning humanitarian treatment of inmates. But in fact, only lip-service was paid to the so-called "six-character policy" of "educate, inspire and save" and most alleged infringements of prison rules were simply punished by a beating from the guards. Beatings were given for such

things as failure to complete one's production quota, insubordination to the guards or talking to prisoners from other squadrons. Another political prisoner held at the mine, Shan Zhenheng, a student from the history department of Beijing Normal College who had almost spent two years in jail after June 1989 on account of his prodemocracy activities, was caught and resentenced in 1991 after submitting a protest petition to the National People's Congress. Unable to endure the harsh conditions at the August 3rd Factory, he tried to commit suicide shortly after arrival by slashing his wrists. Shan is still there now, working day in and day out at the mineface.

Particularly harsh treatment was given to those inmates who continued to insist on their innocence, for example by writing appeal letters to the procuratorial departments. They were regarded as "resisting reform," and at the very least, they received a beating from the guards. Often they were also sent for periods of punishment at the center's "strict regime unit" (*yanguan dui*), where they would be placed in solitary confinement cells and given beatings by other prisoners specially assigned to this task by the authorities. Any inmates caught attempting to escape were also sent to the strict regime unit and automatically had their sentences increased by two years.

The principal type of clay produced for export at SS No.5 is a rare variety of flint clay (*jiaobaoshi*.) The mined product is processed, along with other fire-resistant clays, at SS No.4 (the refractory/heat-resistant materials plant.) Most of the flint clay produced at SS No.5 is then exported to Japan.⁴ The mine itself was first built by the Japanese in the 1930s, and at some

⁴ The finished product is thought to be called "calcined flint clay" (*shu jiaobaoshi*.) New York Times journalist Nicholas Kristof, after failing to find any reference to "jiaobaoshi" in any Chinese technical dictionary, telephoned the Shandong Province Metals and Minerals Import and Export Corporation and enquired about the product: "Jiaobaoshi? Officials at the corporation knew all about it, and they explained

point in recent years Japanese businessmen apparently resumed trading contacts with the mine. On at least two occasions during my time at the August 3rd Factory, moreover, it was announced over the re-education center's closed-circuit television network that delegations of Japanese businessmen had visited the factory to negotiate further export deals.

As a national "model labor re-education unit," the August 3rd Factory also received visitors from other Western countries. In November 1991, for example, a delegation of Austrian police officers was shown around SS No.5. All the prisoners were evacuated well in advance, however, and the foreign delegation members were shown only the newly spruced-up dormitory building and the surrounding area. They were not taken to see the clay mine or any of the other production facilities, and of course they were allowed nowhere near the punishment block or the solitary confinement cells.

In September 1992, eight Christians were sent to SS No.5. All were peasants, of around 35 years old (except for one old man of about 70 years old). They were members of an underground "house church" group, smashed by the police. I only know the name of one member of the group, Guo Chengji, 36 years old, because he was in the same squadron of SS No.5, as myself. I saw his sentencing document; he was convicted solely on ground that he belonged to the "Shouters" Christian sect.

that it is a kind of fine clay used to make heat-resistant oven ware. They said it was mined at Zibo - the site of the labor camp [i.e. August 3rd Factory] - and exported to Japan and occasionally to the United States." ("Export of Prison Goods Seems to Continue," NYT, 7/19/93.)

FACT SHEET- MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES
AND CHINA ON PROHIBITING IMPORT AND EXPORT
IN PRISON LABOR PRODUCTSSIGNING CEREMONY

- o On August 7, 1992, Arnold Kanter, United States Under Secretary of State for Political Affairs, and Liu Huaiqiu, Vice Foreign Minister of the People's Republic of China, signed a Memorandum of Understanding (MOU) prohibiting import and export trade in prison labor products.
- o The ceremony took place at 1:30 pm in the Treaty Room of the Department of State.

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- o The Memorandum of Understanding provides for:
 - each party to promptly investigate suspected violations of relevant laws and regulations based on information provided by the other party and to immediately report the results of such investigations to the other party;
 - meetings between officials of both parties to exchange information and to examine and report on compliance with relevant laws and regulations;
 - the furnishing of evidence which might be used in judicial or administrative proceedings of the other party; and
 - the access by U.S. Embassy officials to suspect Chinese facilities for the purposes of implementing the MOU.

BACKGROUND

- o In July 1991, the President instructed the Department of State to seek to negotiate a Memorandum of Understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor.
- o During Secretary Baker's November 1991 trip to Beijing, he and Chinese Foreign Minister Qian Qichen agreed in principle on the elements of a memorandum of understanding banning exports of prison labor products and providing for prompt investigation, information exchange, meetings between officials, and evidence sharing.

STATEMENT BY UNDER SECRETARY ARNOLD KANTER
AT PRISON LABOR MOU SIGNING CEREMONY

VICE FOREIGN MINISTER LIU, LADIES AND GENTLEMEN,

I AM VERY PLEASED TO BE HERE TODAY WITH YOU, VICE MINISTER LIU, TO SIGN THIS MEMORANDUM OF UNDERSTANDING BETWEEN OUR TWO COUNTRIES ON PROHIBITING IMPORT AND EXPORT TRADE IN PRISON LABOR PRODUCTS.

LAST SUMMER, PRESIDENT BUSH CHARGED THE DEPARTMENT OF STATE WITH NEGOTIATING THIS MEMORANDUM TO FACILITATE IMPLEMENTATION OF U.S. LAWS WHICH BAN THE IMPORTATION OF PRISON-MADE PRODUCTS. NOTING BOTH ITS OWN RULES AGAINST SUCH TRADE AND ITS RESPECT FOR U.S. LAWS AND REGULATIONS, THE CHINESE SIDE RESPONDED POSITIVELY TO OUR REQUEST FOR DISCUSSIONS. DURING SECRETARY BAKER'S VISIT TO CHINA LAST NOVEMBER, THE UNITED STATES AND CHINA TOOK THIS INITIATIVE AN IMPORTANT STEP FURTHER, AGREEING IN PRINCIPLE ON THE ELEMENTS OF THE ACCORD.

SUBSEQUENT TALKS PRODUCED AGREEMENT ON THE CRITICAL POINT OF ALLOWING U.S. ACCESS TO CHINESE FACILITIES FOR THE PURPOSE OF CARRYING OUT THE MOU. THE MEMORANDUM OF UNDERSTANDING CALLS ON BOTH SIDES TO INVESTIGATE PROMPTLY POSSIBLE VIOLATIONS OF RELEVANT LAWS AND REGULATIONS. I AM PLEASED TO ANNOUNCE THAT AN OFFICER OF THE U.S. CUSTOMS SERVICE IS BEING ACCREDITED TO OUR EMBASSY IN BEIJING.

VICE MINISTER LIU, THE SIGNING OF THIS MEMORANDUM, WHICH CULMINATES SEVERAL MONTHS OF HARD WORK BY BOTH SIDES, IS A WELCOME STEP FORWARD IN RELATIONS BETWEEN THE UNITED STATES AND CHINA. I WISH TO THANK YOU AND YOUR GOVERNMENT FOR RECOGNIZING AND RESPONDING TO SERIOUS U.S. CONCERNs IN THIS AREA. I LOOK FORWARD TO CLOSE COOPERATION BETWEEN OUR COUNTRIES AS WE IMPLEMENT THIS IMPORTANT AGREEMENT.

THANK YOU VERY MUCH.

Text of Prison Labor MOU:

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE PEOPLE'S REPUBLIC OF CHINA
ON PROHIBITING IMPORT AND EXPORT TRADE
IN PRISON LABOR PRODUCTS**

The Government of the United States of America and the Government of the People's Republic of China (hereinafter referred to as the Parties),

Considering that the Chinese Government has noted and respects United States laws and regulations that prohibit the import of prison labor products, has consistently paid great attention to the question of prohibition of the export of prison labor products, has explained to the United States its policy on this question, and on October 10, 1991, reiterated its regulations regarding prohibition of the export of prison labor products;

Considering that the Government of the United States has explained to the Chinese Government U.S. laws and regulations prohibiting the import of prison labor products and the policy of the United States on this issue; and

Noting that both Governments express appreciation for each other's concerns and previous efforts to resolve this issue,

Have reached the following understanding on the question of prohibiting import and export trade between the two countries that violates the relevant laws and regulations of either the United States or China concerning products produced by prison or penal labor (herein referred to as prison labor products).

The Parties agree:

1. Upon the request of one Party, and based on specific information provided by that Party, the other Party will promptly investigate companies, enterprises or units suspected of violating relevant regulations and laws, and will immediately report the results of such investigations to the other.

2. Upon the request of one Party, responsible officials or experts of relevant departments of both Parties will meet under mutually convenient circumstances to exchange information on the enforcement of relevant laws and regulations and to examine and report on compliance with relevant regulations and laws by their respective companies, enterprises, or units.

3. Upon request, each Party will furnish to the other Party available evidence and information regarding suspected violations of relevant laws and regulations in a form admissible in judicial or administrative proceedings of the other Party. Moreover, at the request of one Party, the other Party will preserve the confidentiality of the furnished evidence, except when used in judicial or administrative proceedings.

4. In order to resolve specific outstanding cases related to the subject matter of this Memorandum of Understanding, each Party will, upon request of the other Party, promptly arrange and facilitate visits by responsible officials of the other Party's diplomatic mission to its respective companies, enterprises or units.

This Memorandum of Understanding will enter into force upon signature.

DONE at Washington, in duplicate, this seventh day of August, 1992, in the English and the Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA:

CHINESE CONVICT LABOR ISSUANCES
(As of August 19, 1993)

Detention orders are issued by the Commissioner of Customs when information available reasonably, but not conclusively, indicates that merchandise within the purview of 19 USC 1307 is being, or is likely to be, imported. (19 CFR 12.42(e))

If the Commissioner is subsequently provided with additional information, sufficient enough for the Commissioner to make a "determination" that the goods in question are subject to the provisions of 19 USC 1307, the Commissioner, with the approval of the Secretary of the Treasury, will publish a "finding" to that effect in a weekly issue of the Customs Bulletin, and in the Federal Register (19 CFR 12.42(f)).

Detention Orders (DO):

Issued:

- 1a. 10-03-91 - Wrenches - (Shanghai Laodong Machinery Plant)
- 1b. 10-03-91 - Steel Pipe - (Shanghai Laodong Steel Pipe Works)
2. 10-25-91 - Hand Tools - (Shanghai Laodong Machinery Plant)
3. 10-29-91 - Socks - (Beijing Qinghe)
4. 11-06-91 - Planing Machines - (Xiang-Yang)
5. 11-14-91 - Diesel Engines - (JinMa - Golden Horse)
6. 12-02-91 - Machine Presses - (Xuzhou Forging & Pressing)
7. 01-07-92 - Diesel Engines & Textile Machinery - (Dezhou Shengjian)
8. 02-25-92 - Galvanized Pipe - (Shandong Laiyang)
9. 02-25-92 - Tea - (Red Star)
10. 05-22-92 - Grapes - (Qinghe Farm)
11. 05-22-92 - Sheepskin & Leather - (Qinghai Hide & Garment)
12. 06-24-92 Hand Tools (Shanghai Machinery Import & Export amends #1a and #2)
13. 06-26-92 - Cast Iron Items - (Wang Tsang Coal & Iron)
14. 06-26-92 - Tea (Miao Chi)
15. 07-15-92 - Auto Parts & Machinery - (Ya An Auto Parts Factory)
16. 07-15-92 - Drilling Machines (Zi Gong Machinery Factory)
17. 07-17-92 - Sulphuric (Sulphuric) Acid - (Da Wei Chemical Factory)
18. 08-03-92 - Electric Fans & Zinc-Coated Wire (Sichuan Xinsheng)
19. 08-14-92 - Asbestos - (Hsin Kang Asbestos Mine)
20. 07-08-93 - Hoists - (Wulin(g) Machinery Works, aka Hangzhou Wulin Machinery Plant, aka Hangzhou Wulin Machinery Works, aka Zhejiang Province No. 1 Prison)
21. 08-06-93 - Hoists - (Wuyi Machinery Plant, aka Zhejiang Light Duty Lifting Machinery Factory China, aka Zhejiang Province No. 1 Prison)

Pending:

1. 08-18-93 - Rubber Vulcanization Accelerators - (Shenyang New Life Rubber Factory, aka Shenyang No.2 Laogai Detachment, aka Shenyang Xinsheng Rubber Plant, aka Shenyang Dabei Prison, aka Shenyang Model Prison)
2. 08-18-93 - Surgical Gloves, Condoms, Raincoats, Rubber Boots and Shoes - (Shenyang Xinsheng Chemical Works, aka Shenyang No.1 Laogai Detachment, aka Xinsheng Chemical Factory, aka Dongbei Assistant Agent Main Factory, aka Shenyang Reform Through Labor Bureau, Second Reform Division.

Findings:

1. 03-18-92 - T.D. 92-27 - Diesel Engines (as DO #5)
- effective 03-23-92
2. 07-07-92 - T.D. 92-66 - Socks (as DO # 1)
- effective 07-13-92
3. 07-07-92 - T.D. 92-67 - Tea (as DO # 9)
- effective 07-13-92
4. 08-14-92 - T.D. 92-78 - Machine Presses (as DO # 6)
- effective 08-19-92
5. 06-11-93 - T.D. 93-41 - Sheepskin & Leather (as D.O. # 11)
- effective 06-16-93

Lee H. Hamilton, Chairman
Committee on Foreign Affairs

Tom Harkin, Ranking Member
Committee on Energy and Commerce

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DAN LEATH, South Carolina
JOHN L. TORNER, New Jersey
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JOSEPH A. GALLAGHER, New York
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Representatives from the Senate

MICHAEL D. VAN SICKLEN, Chairman
Senate Select Committee on Small Business

One hundred Third Congress
Congress of the United States
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

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EDWARD J. GINGL, New York
RICHARD J. GARDNER, Colorado
Representatives from the Senate

March 5, 1993

President William J. Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

I understand that the Administration is currently reviewing U.S. policy towards the People's Republic of China. I would like to take this opportunity to offer my recommendations to you on an important element of our bilateral relationship with China: the use of forced labor by Chinese prisons to make products exported to the United States.

The Subcommittee on Economic Policy, Trade and Environment, which I chair, has focused on the Chinese forced labor issue since the fall of 1991. The subcommittee held two hearings on the forced labor issue, including testimony by former Customs Commissioner Carol Hallett, as well as a series of briefings on the matter. Subsequently, the House and Senate approved a resolution condemning China's use of forced labor and its repeated violation of U.S. law.

In the course of the subcommittee's investigation, the body of knowledge on Chinese forced labor practices has grown tremendously. Detailed reports by Asia Watch, Sixty Minutes, Newsweek, Business Week, the Los Angeles Times, and former Chinese political prisoner Harry Wu have shed light on China's prison, labor reform, and reeducation facilities. All the reports have reached the same two conclusions: (1) forced labor is a fact of life for China's prisoners, and (2) products made by Chinese forced labor are routinely exported to the United States.

As you know, the U.S. and China signed a Memorandum of Understanding (MOU) last year which provides for Chinese investigations of suspected forced labor cases and U.S. inspections of Chinese forced labor sites. Although the MOU clearly has its flaws, the agreement represents a step forward.

I also appreciate the significant efforts made by the U.S. Customs Service since the fall of 1991 to crack down on Chinese

forced labor imports in line with Section 1307 of the 1930 Tariff Act. The detention orders issued by the Customs Service against Chinese products, however, have only targeted individual factories using forced labor. I believe that this limited action has yet to convince the Chinese government that the U.S. means business on the forced labor issue.

Beijing will only get the message when the Customs Service bans the importation of entire classes of Chinese goods made with forced labor. The brick-by-brick approach utilized by Customs during the Bush Administration might yield results over many years. But China's political prisoners should not be forced to labor for years on the assembly lines and in the fields simply because the U.S. will not aggressively implement the 1930 Tariff Act.

I urge you to change the approach used by the Customs Service to the implementation of this important law. Current law as well as current regulations give the Customs Service the authority to ban the importation of entire categories of Chinese forced labor products. The Customs Service, however, has chosen to interpret these laws and regulations in a conservative, non-aggressive manner.

The statute itself clearly calls for immediate and tough action against Chinese forced labor imports. As you know, Section 1307 states:

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any ports of the United States, and the importation thereof if hereby prohibited

By approving Section 1307, Congress clearly established a zero tolerance policy on forced labor imports. The United States would no longer be a party to human rights abuses in other countries, and American workers would no longer be forced to compete against cheap forced labor imports.

The regulations established after passage of Section 1307, furthermore, also provide Customs with the authority to ban the importation of entire classes of forced labor imports. The regulations state that Customs officials who believe that "any class of merchandise" is made with forced labor should communicate their belief to the Customs Commissioner. If the Customs Commissioner finds that there is sufficient evidence that any class of merchandise is being made with forced labor, "any merchandise of a class specified in a finding" shall be prohibited from importation.

The insistence by the Customs Service during the Bush Administration that the regulations only grant Customs the

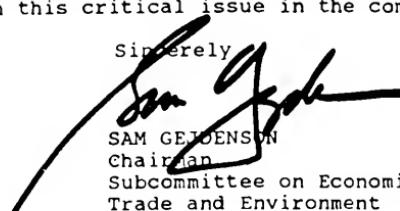
authority to act against the exports of specific factories, not entire classes of goods, guarantees that forced labor products will continue to flow into the United States. Prohibiting the importation of wrenches from a Shanghai factory is a good first step, but one which can be easily circumvented. The Shanghai factory can simply arrange to stamp the name of another Chinese factory on its products, and thereby avoid detection by the U.S. Customs Service.

The only long-term solution is to prohibit the importation of a class of Chinese goods, such as Chinese wrenches, until the Chinese government proves that the class of goods was not made with forced labor. These assurances, furthermore, must be verified by inspections of suspected forced labor sites under the terms of the MOU. Beijing, not Washington, should bear the burden of proving that Chinese products are not made with forced labor.

The evidence is mounting that Chinese forced labor products are routinely sold on American shelves. The Chinese themselves have publicly stated that numerous Chinese products -- from tea to tennis shoes -- are made with forced labor and exported to the United States. Customs, however, has consistently refused to stop the importation of these forced labor products into the U.S. in line with U.S. law. Aggressive Customs action against entire classes of Chinese forced labor products will convince Beijing that the U.S. government has established, and will actively implement, a zero tolerance policy on Chinese forced labor imports.

I am pleased that you are re-evaluating U.S. policy toward China in light of the mainland's horrendous record on human rights, trade, and proliferation. I look forward to working closely with you on this critical issue in the coming years.

Sincerely,


SAM GEJDENSON
Chairman
Subcommittee on Economic Policy,
Trade and Environment

**Congress of the United States
House of Representatives
Washington, D.C. 20515**

JOINT STATEMENT TO THE U.S. CUSTOMS SERVICE

CHINESE FORCED LABOR IMPORTS

NOVEMBER 1, 1991

Honorable Sam Gejdenson, M.C.

Honorable Gary Ackerman, M.C.
Honorable James Bilbray, M.C.
Honorable David Bonior, M.C.
Honorable Ronald Dellums, M.C.
Honorable Thomas Downey, M.C.
Honorable Bernard Dwyer, M.C.
Honorable Thomas Foglietta, M.C.
Honorable Benjamin Gilman, M.C.
Honorable George Hochbrueckner, M.C.
Honorable Frank Horton, M.C.
Honorable William Jefferson, M.C.
Honorable Gerald Kleczka, M.C.
Honorable Peter Kostmayer, M.C.
Honorable Robert Lagomarsino, M.C.
Honorable Thomas Manton, M.C.
Honorable Wayne Owens, M.C.
Honorable Nancy Pelosi, M.C.
Honorable Arthur Ravenel, M.C.
Honorable James Scheuer, M.C.
Honorable Edolphus Towns, M.C.
Honorable Jolene Unsoeld, M.C.
Honorable Gus Yatron, M.C.

Thank you for providing us the opportunity to present our views regarding forced labor imports from the People's Republic of China.

Within the past six months, the body of knowledge on Chinese forced labor practices has grown tremendously. Detailed reports by Asia Watch, 60 Minutes, Newsweek, Business Week, the Los Angeles Times, and former Chinese political prisoner Harry Wu have shed light on China's prison, labor reform, and reeducation facilities. All the reports have reached the same two conclusions: (1) forced labor is a fact of life for China's prisoners, and (2) products made by Chinese forced labor are routinely exported to the United States.

We appreciate the efforts made by the U.S. Customs Service in October to crack down on Chinese forced labor imports in line with Section 1307 of the 1930 Tariff Act. The recent decision by Customs to temporarily prohibit the release of wrenches and steel pipe produced at two Shanghai factories is a good first step toward aggressive implementation of U.S. law. We believe, however, that this limited action will not convince the Chinese government that the U.S. means business on the forced labor issue.

Beijing will only get the message when the Customs Service bans the importation of entire classes of Chinese goods made with forced labor. The results of the brick-by-brick approach currently being utilized by Customs will only be realized, if at all, over several years. China's political prisoners should not be forced to labor for years on the assembly lines and in the fields simply because the U.S. will not aggressively implement the 1930 Tariff Act.

The statute itself clearly calls for immediate and tough action against Chinese forced labor imports. As you know, Section 1307 states:

"All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any ports of the United States, and the importation thereof if hereby prohibited"

By approving Section 1307, Congress clearly established a zero tolerance policy on forced labor imports. Under this provision, the United States would no longer be a party to human rights abuses in other countries, and American workers would no longer be forced to compete against cheap forced labor products.

The regulations established after passage of Section 1307, furthermore, provide Customs with the authority to ban the importation of entire classes of forced labor imports. The regulations state that Customs officials who believe that "any

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"class of merchandise" is made with forced labor should communicate their belief to the Customs Commissioner. If the Customs Commissioner finds that there is sufficient evidence that any class of merchandise is being made with forced labor, "any merchandise of a class specified in a finding" shall be prohibited from importation.

The current insistence by the Customs Service that the regulations only grant Customs the authority to act against the exports of specific prison factories, not entire classes of goods, guarantees that forced labor products will continue to flow into the United States. Prohibiting the importation of wrenches from a Shanghai factory is a good first step, but one which can be easily circumvented. The Shanghai factory can simply arrange to stamp the name of another Chinese factory on its products, and thereby avoid detection by the U.S. Customs Service.

The only long-term solution is to prohibit the importation of a class of Chinese goods, such as Chinese wrenches, until the Chinese government proves that the class of goods was not made with forced labor. These assurances, furthermore, must be verified by international inspections of suspected forced labor sites. Beijing, not Washington, should bear the burden of proving that Chinese products are not made with forced labor.

The use of forced labor to make Chinese wrenches, however, is only the tip of the iceberg. Recent investigative reports have presented convincing evidence that Chinese tea exporters are heavily dependent upon forced labor. The use of forced labor in the Chinese tea production process is documented in several Chinese government publications, including the 1986 Yunnan Yearbook, the 1987 Guangxi Yearbook, and a 1987 book entitled The Theory and Practice of Convicts Reformed Through Labor. Another 1990 Chinese government publication, Theoretical Studies in Labor Reform and Labor Reeducation, clearly identifies the export activities of the Red Star Tea Farm in Guangdong Province. This "farm" utilizes over 100,000 Chinese prisoners.

Other major categories of Chinese goods exported to the United States are heavily dependent upon the use of forced labor:

* According to 1989 and 1990 issues of Theoretical Studies in Labor Reform and Labor Reeducation, a significant portion of Chinese denim exported to the United States is produced with forced labor;

* Chinese diesel engines produced with forced labor, according to the 1986 Yunnan Yearbook and the 1987 Guangxi Yearbook, are regularly sold on the international market;

* In-depth reports by Business Week and Central Daily News show that shoes, sandals, running shoes and vinyl slippers exported to the United States are made with Chinese forced

labor.

The evidence is mounting that Chinese forced labor products are routinely sold on American shelves. The Chinese themselves have publicly stated that numerous Chinese products -- from tea to tennis shoes -- are made with forced labor and exported to the United States. Customs, however, has consistently refused to stop the importation of these forced labor products into the U.S. in line with U.S. law. Aggressive Customs action against entire classes of Chinese forced labor products will convince Beijing that the U.S. government has established, and will actively implement, a zero tolerance policy on Chinese forced labor imports.

Again, we thank you for the opportunity to submit our views on the Chinese forced labor issue for the record. We look forward to working closely with the Customs Service on this critical issue.



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